

State of California – The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

## Request for Proposals

# Three Historic-Style Specialty Retail Concessions



**SCHWARTZ / HEYNEMANN BUILDING**



**MC CHESNEY / IOOF BUILDING**



**POP KONRAD'S GARAGE**

## Columbia State Historic Park

Tuolumne County, California



**REQUEST FOR PROPOSALS**

**FOR**

**Three Historic-Style Specialty Retail Concessions**

**AT**

**Columbia State Historic Park**

Opening Date  
January 25, 2012

Closing Date  
April 10, 2012

STATE OF CALIFORNIA – RESOURCES AGENCY  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS, RESERVATIONS, AND FEES DIVISION  
1416 NINTH STREET, 14<sup>TH</sup> FLOOR  
SACRAMENTO, CA 95814



## NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that the California Department of Parks and Recreation is accepting proposals for three separate concession operation contracts as described below.

Building	Minimum Rental Bid	Concession Type	Approx. Building Size
Swartz / Heynemann Building 22760 Main Street	\$12,000 annually or 7% of gross receipts, whichever is greater	Historic-Style Specialty Food/Retail	965 sq. ft. (18'x55')
Pop Konrad's Garage 22719 Broadway Street	\$6,000 annually or 4% of gross receipts, whichever is greater	Historic-Style Specialty Retail	1440 sq. ft. (30'x48')
McChesney / IOOF Building 11198 State Street	\$3,000 annually or 4% of gross receipts, whichever is greater	Historic-Style Specialty Retail	1784 sq. ft. (29.5'x60.5')

Park Unit:	Columbia State Historic Park
Proposal Closing Time & Date:	2:00 P.M. April 10, 2012
Proposal Submission Location:	Department of Parks and Recreation 1416 Ninth Street, Room 1442-13 Sacramento, CA 95814
Historic Period:	1850-1870 Typical California Gold Mining Town
Contract Term:	Five (5) years with the State's option to extend for up to five (5) additional years
Proposal Bond (due at time of proposal submission):	Swartz/Heynemann Building and Pop Konrad's Garage: One Thousand Dollars (\$1,000) McChesney/IOOF Building: Two Hundred, Fifty Dollars (\$250)
Performance Bond (due at time of Contract execution):	Six (6) Months Minimum Annual Rent
Proposer's Minimum Years of Relevant Experience:	Two (2) Years
Optional Pre-Proposal Meeting:	February 6, 2012 at 6:00 p.m.

For more information or to purchase a copy of the complete RFP for \$25.00, contact Peggy Harwell at (209) 536-2917 or email [pharwell@parks.ca.gov](mailto:pharwell@parks.ca.gov).

  
Ruth Coleman, Director



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## SECTION 1 - PROJECT SUMMARY

### 1.1 GOAL & OBJECTIVES

#### **Department Mission**

The mission of California State Parks is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

#### **Park Mission, Goals and Objectives**

The mission of Columbia State Historic Park (SHP) is to interpret the early days of Columbia (from 1850-1870 during the California Gold Rush and of the years immediately following) with a variety of innovative, interpretive and educational services, and to facilitate a safe, enjoyable and high quality learning experience for visitors.

The goal of Columbia SHP is to provide visitors with opportunities to learn about and experience California during and after the California Gold Rush, which took place from 1848 to 1854, through the preservation, restoration, reconstruction and interpretation of the original historic landscape, features, buildings, objects, people, customs and activities.

The objective of Columbia SHP is to ensure that the National Historic Landmark (NHL) property is preserved and protected so as not to jeopardize the NHL designation. Special language to ensure State meets this objective has been inserted in the Concession Contract.

#### **Goal of this Request for Proposals (RFP)**

The goal of this RFP is to award three (3) separate concession contracts for five (5) years, with the State's option to extend for up to five (5) additional years, to qualified individuals or entities to operate historic-style specialty retail businesses in Columbia SHP.

#### **Objectives of These Concessions**

The objectives of these concession opportunities are to:

- Assist in and complement the re-creation of the historic ambiance of the gold mining town of Columbia;
- Where appropriate, add to the historic ambiance with furnishings suitable to the style of business and its interpretive period, as well as activities that reinforce the nature of the historic business;
- Assist the Department in the provision of accessible concession facilities and services;
- Provide quality products and services at reasonable prices to park visitors;
- Promote and complement safe, enjoyable and high quality recreational experiences for all park users.

## 1.2 GENERAL INFORMATION

### Site Description

Columbia is located in the western foothill region of California's south central Sierra Nevada. It is in Tuolumne County, approximately four miles north of Sonora, the county seat, and is two miles east of State Highway 49, the scenic route that connects many Mother Lode communities. By automobile, Columbia is slightly more than a two-hour drive from Sacramento, and a four-hour drive from the San Francisco Bay Area. With ideal spring and fall weather, this location experiences warm to hot summer days and cool to cold winter days with small amounts of snow.

Columbia SHP, within the limits of the historic gold mining town of Columbia, is significant for having the largest collection of Gold Rush-era buildings and structures in California and as being the best-preserved historic Mother Lode town in California. It is listed as a National Historic Landmark, the highest Federal designation in the United States, and is considered an exceptional United States heritage resource worthy of protection and preservation. Columbia is also California Historic Landmark No. 123. It is operated by California State Parks as a combination of government and private business collaborations.

The park explains and involves visitors in Columbia's past, whether by panning for gold or taking a wagon ride. Visitors are invited to step back in time, to experience what life was like for the everyday person, and to bring to the present a personal understanding of that history.



**Main Street, Columbia in 1856**

### Historical Significance

The Sierra foothill town of Columbia was founded during California's Gold Rush in 1850. It began as a small prospectors' camp and quickly turned into a town with thousands of placer miners. Columbia is in a unique geological setting. Gold deposits were found in limestone pockets and were removed using hydraulic mining technologies. Within two years, the town had formally laid-out streets with over 150 wood-framed buildings. Major fires in 1854 and 1857 destroyed most of the town. Fire-resistant brick was subsequently used to rebuild, and many of these structures exist today.



Only a decade after it was founded, the town's population was on the decline. By the 1880s, prospectors were tearing down vacant buildings to mine the last remaining gold. Columbia was never abandoned and retained its historic character into the 20<sup>th</sup> century. The town was revitalized in the 1920s, with the rising popularity of tourists motoring to quaint, rural places. By 1945, at the community's request, the State of California acquired most of the town's historic buildings, and it was designated Columbia State Historic Park.

Columbia is distinguished by having the largest collection of Gold Rush-era structures in California. A major program emphasizing building restoration and rehabilitation began in the 1960s and continues to the present day. Scars on the landscape, created during the frenetic search for gold, including hydraulic and hard rock mining, are now covered by native vegetation that has reclaimed the area.

### **Concessions in the Park**

Through concessions, much of the town's business district has been re-created, offering historic-style stores, saloons, restaurants, and hotels. Visitors have the chance to time-travel to the 1850s, imagine life when gold miners rubbed shoulders with business men and women and Columbia residents, and watch proprietors in period clothing conduct business. There are opportunities to tour the park with knowledgeable interpretive staff and docents, observe blacksmithing and candy making, ride a 100 year-old stagecoach, pan for gold, or attend theater performances.

Concessions operating in this environment are an essential part of its interpretation. Their activities complement the historic park and engage visitors through historic business activities, quality interpretive programs and activities to increase visitor knowledge and appreciation for the past in personally meaningful ways. Therefore, individuals wishing to become involved as a concessionaire in the historic park must have or be willing to develop the special knowledge, skills and abilities needed to interpret the early days of Columbia during and immediately following the California Gold Rush.

Recent visitor attendance reports indicate Columbia SHP attracts an average of 497,000 visitors each year. Thousands of school children, a majority of which are 4<sup>th</sup> graders, visit Columbia each spring primarily on weekday mornings to participate in educational/interpretive activities. Permanent residents in Columbia now exceed 2,500 and Tuolumne County has experienced considerable growth over the last ten years. The community of Columbia is also home to Columbia Community College, Columbia Elementary School, Tuolumne County's general aviation airport and CAL FIRE'S Air Tanker Base. The local community frequents the park and brings guests to visit on a regular basis.



Recent Picture of Main Street. Columbia

## Current Concession Operations and Facility Descriptions

### **Schwartz / Heynemann Building – 22760 Main Street –Specialty Food/Retail**

Historical Significance: The building was owned by James and Carmen Whitburn and then Juan Dupont before it burned down in 1854. In 1854 Louis Schwartz bought the lot and had a one story brick building built by J.M. Bean. In 1855 Haag and Heynemann opened the San Francisco lager beer saloon. In 1857 Christine and David Oppenheimer bought the building and ran the saloon. At the same time, E.S. Nassau had the Empire Variety Store in the building. Many different people bought the building and ran the saloon business until 1915. In 1915, Mrs. Dante Cinelli bought the building and lived in it until 1947 when the State purchased it. From 1952 to 1964 Dorothy Kirkman operated a bakery concession. In 1965, it became a candy making concession ran by Dale and Gladys Heric, followed by the Nelson family in 1971. In 1996 it became Brown's Coffee and Sweets Saloon. Currently the concession operation is open year-round.

Concessions appropriate to this facility include, but are not limited to:

Coffee house and/or bakery to include sales of coffee/teas, pastries, sweets, desserts, and coffee/tea related merchandise.

Concessions not appropriate to this facility include:

Lodging

Restaurant, ice cream parlor or candy shop, bar (saloon)

Specialty Retail clothing, kitchen and household supplies, candles, soaps, jewelry, stationery, hats, mining tools, antiques, toys

Photography

The gross sales and rent for the last five years as reported by the current Concessionaire are as follows:

<u>Fiscal Year</u>	<u>Gross Receipts</u>	<u>Rent to State</u>
2010/11	\$216,131	\$15,129
2009/10	\$204,999	\$14,605
2008/09	\$206,368	\$14,935
2007/08	\$202,557	\$15,304
2006/07	\$175,537	\$ 9,526

### **Pop Konrad's Garage – 22719 Broadway Street - Specialty Retail**

Historical Significance: In 1856 Isaac Shotwell built a framed structure and rented and then sold to Starbuck & Hines, Daguerreotypists. Starbuck then sold to Cornelius and Dennis Kelly who built a one story brick building for their grocery store. The Kellys then sold to William Seibert in 1888 who tore it down and sold the brick to the Golden Gate Mine in Sonora to build a furnace. The lot changed hands several times until it was bought by Timothy (Pop) Konrad who built a garage with gas pumps in front. In 1947 the State bought the building and lot from Timothy Konrad. In the 1960s the building was used as a plumbing shop for State Parks. In 1973 it was used as a garage and

workshop, and in the 1990s Davene Stoller operated it as Columbia Feed and Tack.. In 1995 it became Columbia Candle and Soap Works ran by Kim Kyhl until the end of 2007, at which time her business was relocated so that renovations could begin on the building. Currently there is no concession in this building.

Concessions appropriate to this facility include, but are not limited to:

Candle and soap shop

Other Concessions That Will Be Considered

Weavers-Spinners Shop

Antique Store including Reproductions

Artisan's Outlet Mall (i.e., Tinsmith, Silversmith, Pottery Maker, Painter, etc.)

Tobacco/Cigar Store

Furniture Making

Feed & Pet Supply Store

Concessions not appropriate to this facility include:

Lodging

Any restaurant, food or beverage service

Specialty Retail women's clothing, costumes, kitchen and household supplies, stationery, hats, mining tools, toys

The gross sales and rent for the last five years as reported by the current Candle & Soap Concessionaire operating at this location through FY 2007/08 are included here.

<u>Fiscal Year</u>	<u>Gross Receipts</u>	<u>Rent to State</u>
2010/11	\$165,911	\$4,977
2009/10	\$164,642	\$4,939
2008/09	\$179,016	\$5,370
2007/08	\$198,272	\$5,948
2006/07	\$210,323	\$6,310

**McChesney / IOOF Building – 11198 State Street – Specialty Retail**

Historical Significance: In 1852 Captain Edward Raspal purchased the wood structure building from Bernard and Cheminant and operated "Captain Raspal's Billard Saloon" on the first floor with sleeping quarters on the second floor. After the building burned in 1854, the lot was sold to Dr. James McChesney who built a two story brick building. The Toomey and O'Keefe's San Francisco Family Grocery operated on the main floor, with Dr. McChesney's office in the back, and a meeting hall on the second floor. Dr. McChesney sold the building to Albert Carver in 1857 at which time the Independent Order of Odd Fellows (IOOF) began meeting upstairs. In 1868, Carver sold the building to the IOOF, and the grocery business continued with different owners until 1871. In 1872 Dr. Lyman C. Tibbits had his office on the lower floor for a few months; then it was used for a drying room for fruit and a practice room for the brass band. The building was sold to the State in 1949. The IOOF vacated the building in 2007. In October 2007 Columbia Candle and Soap Works relocated into the building from Pop Konrad's

Garage so that renovations could commence at the garage. Currently the concession operation is open year-round.

Concessions appropriate to this facility include, but are not limited to:

Cheese Factory  
Specialty Sausage Making, Cured Meats  
Chinese Herb and Medicinal Shop  
Furniture Making

Concessions not appropriate to this facility include:

Candle and soap shop  
Lodging  
Any restaurant or beverage service  
Specialty Retail women's clothing, costumes, kitchen and household supplies, stationery, hats, mining tools, toys

There are no past gross sales or rent associated with this building other than its former use as a candle and soap shop which will be relocated to Pop Konrad's Garage.

**NOTE:** The financial information included herein is for general information only; the State does not guarantee its accuracy. It is recommended that proposers personally investigate the premises and park environs.

### **1.3 CONTRACT SUMMARY**

Three separate contracts are available for bid through this RFP. Each of two contracts provides for the operation of a historic-style specialty retail concession and a third contract provides for the operation of a historic-style specialty food/retail concession, each at different locations under different operating requirements.

It is critical that proposers be familiar with and understand all the terms and conditions of the Sample Concession Contract (included herein). Your proposal should be based on the requirements of this contract in its entirety. If a proposer is awarded the contract, the successful proposer has 30 days to review and sign the awarded contract. The successful proposer shall be expected to accept the provisions of the Sample Concession Contract as written. If necessary, minor clarifications, approved by staff counsel, the Department of General Services, and the Attorney General, may be made prior to contract execution. The intent of the contract is to provide the public with high-quality, reasonably priced goods and services in an authentic manner and atmosphere that enhances the visitor's experience and the educational, natural, and cultural resources of the park. The term of all three (3) contracts is for a period of five (5) years with the State's option to extend up to five (5) additional years.

Summary descriptions of some of the important contract provisions are described below.

**At a minimum, the successful proposer will be required to:**

1. Develop, operate, maintain and promote a historic-style specialty coffee house concession at the Swartz/Heynemann Building, 22760 Main Street, or a historic-style specialty candle and soap concession at Pop Konrad's Garage, 22719 Broadway Street, or a historic-style specialty retail concession at the McChesney/IOOF Building, 11198 State Street that meets the goals of this RFP and the requirements of the Sample Concession Contract for that location. The specialty stores shall be furnished and landscaped appropriate to the period of 1850-1870 and in accordance with the State's guidelines.
2. Pay as monthly rent the amount presented in the proposal, which, at a minimum, shall be:
  - For Swartz/Heynemann Building: the greater of Twelve Thousand Dollars (\$12,000) annually or Seven Percent (7%) of Gross Sales.
  - For Pop Konrad's Garage: the greater of Six Thousand Dollars (\$6,000) or Four Percent (4%) of Gross Sales.
  - For McChesney/IOOF Building: the greater of Three Thousand Dollars (\$3,000) annually or Four Percent (4%) of Gross Sales.
3. Implement an Operation Plan, Facility Improvement Plan, and Interpretive Plan as specified in Proposal Instructions that clearly demonstrates the proposer's plan to provide accessible services and facilities that comply with ADA guidelines. The plans will become part of the contract subject to State review and approval.
4. At a minimum, the business shall be open as follows:
  - Memorial Day through Labor Day seven days a week 10 a.m. to 5 p.m.
  - Day after Labor Day through September 30<sup>th</sup> and April 1<sup>st</sup> to Memorial Day six days a week 10 a.m. to 5 p.m.
  - October 1<sup>st</sup> through March 31<sup>st</sup> five days a week 10 a.m. to 5 p.m.
  - Closed days shall not be on Saturday, Sunday, or holidays
5. Require concession employees, when in public view, be attired in period-appropriate clothing designated by the historic period use of the premises.
6. Maintain the premises, facilities, and equipment in good, safe and sanitary condition in accordance with all standards set forth in Sample Contract Section 19- Housekeeping, Maintenance, Repair and Removal, Exhibit K- Maintenance Schedule, and Exhibit L- SOI Standards for the Treatment of Historic Properties All housekeeping and maintenance shall be at Concessionaire's own cost and expense.
7. Provide a continuing Performance Bond in the amount of six month's minimum annual rent as bid.

8. Pay for all taxes applicable to the operation of the concession, including possessory interest taxes, and all utility services as required by the contract.
9. Provide liability, workers' compensation and fire insurance as required by the contract.
10. Obtain all necessary licenses, permits, and approvals as set forth in the contract and abide by all applicable health, safety, and environmental codes and regulations.
11. Comply with the letter and spirit of current and subsequent guidelines or plans, including General Plan amendments or updates, management and interpretive plans, historic structure reports, and others.
12. Demonstrate compliance with labor laws as specified in the RFP.
13. Develop and promote an accessible environment for visitors and complete any necessary facility improvements to comply with the American's with Disabilities Act (ADA).

**The successful proposer will not:**

1. Provide or sell items or services considered inappropriate, deemed objectionable, or denied by the State.
2. Charge prices in excess of those approved by the State.
3. Promote or participate in activities that are incompatible with the rules, regulations, guidelines, or the mission of the Department.

**Note: This contract summary is for general information only. Terms and conditions are set forth in detail in the Sample Concession Contract.**

## SECTION 2 - THE RFP PROCESS

### 2.1 PROPOSAL PROCESS

#### Tentative Proposal Dates

January 25, 2012 .....	Opening Date - Publication of the RFP
February 6, 2012.....	Optional Pre-Proposal Meeting
February 13, 2012.....	Questions - Last date for proposers to submit written questions
February 21, 2012.....	Answers - DPR written responses to questions
April 10, 2012.....	Closing Date - Deadline for proposal submission
April 2012 .....	Investigation and evaluation of Proposals
April 2012 .....	Notification of "Intent to Award Contract"
May 2012 .....	Award, preparation, and execution of contracts
June 1, 2012 .....	Contract Effective Date

**Note:** This schedule does not consider unforeseen factors that could impact the timing of the project. It is the intent of the State to keep proposers apprised of changes in the schedule as they occur. Should the award of the contract be protested, additional time will be required to resolve the matter.

#### Optional Pre-Proposal Meeting

It is strongly recommended that the proposer or designated representative attend the optional pre-proposal meeting at 6 p.m. on February 6, 2012 at Eagle Cotage, 11195 Washington Street, Columbia State Historic Park, Columbia, California. The meeting provides an equitable forum for all proposers to:

- Meet local Department staff;
- Learn about the RFP process, including procedures for questions and answers, proposal submission, and contract award;
- Inspect the concession site and receive information on the park and facility history and Department plans for the park and the concession;
- Review the RFP document.

#### RFP Content Questions

Questions regarding this RFP must be submitted in writing and received no later than 5 p.m. on February 13, 2012. To ensure fair competition in which all proposers receive the same information and materials, no telephone or personal inquiries about this RFP will be answered. Questions should be submitted in writing to the Department by email or fax at the address and phone numbers listed below. A written compilation of all questions and answers, and any RFP addenda, will be posted at [www.parks.ca.gov/concessions](http://www.parks.ca.gov/concessions) and sent by first-class mail or email to all identified

potential proposers. Questions will be answered as clearly and completely as possible without jeopardizing the competitiveness of the proposals.

Proposers should send their questions addressed to:

**California Department of Parks and Recreation  
Concessions, Reservations, and Fees Division  
1416 Ninth Street, Room 1442-13  
Sacramento, California 95814  
Attn: Peggy Harwell  
pharwell@parks.ca.gov  
Fax: 916-657-1856**

### **Proposal Bond**

Proposals must be accompanied by a Proposal Bond or cashier's check payable to the State of California, Department of Parks and Recreation, in the amount of one thousand dollars (\$1,000) for the Swartz/Heynemann Building or Pop Konrad's Garage; and two hundred and fifty dollars (\$250) for the McChesney/IOOF Building. By submitting a proposal bond the proposer agrees that the bond may be cashed and retained by the State. If a cashier's check is submitted it will be cashed by the State. In the event the proposer fails to execute the contract, the bond or cashier's check will be retained by the State. Further, by submitting a proposal, proposer agrees that the State will suffer costs and damages not contemplated otherwise should proposer be awarded the contract but fail to execute and proceed with the contract, the exact amount of which will be difficult to ascertain. Accordingly, it is agreed that such retained sums shall not be deemed a penalty, but, in lieu of actual damages, shall represent a fair and reasonable estimate of damages to the State for failure of the proposer to execute and proceed with the contract upon notification of award by the State. Bonds will be returned to all proposers once a contract is signed by the best responsible bidder.

### **Proposal Submission**

Your proposal, including the Proposal bond, must be received by 2 p.m. on April 10, 2012, at:

California Department of Parks and Recreation  
Concessions, Reservations, and Fees Division  
1416 Ninth Street, Room 1442-13  
Sacramento, California 95814

### **Proposal Format & Content**

The proposal package must be sealed and clearly marked on the outside with Proposer's name and "Proposal for the Historic-Style Specialty Food/Retail Concession at Columbia State Historic Park – Swartz/Heynemann Building" or "Proposal for the Historic-Style Specialty Retail Concession at Columbia State Historic Park – Pop Konrad's Garage" or "Proposal for the Historic-Style Specialty Retail Concession at Columbia State Historic Park – McChesney/IOOF Building". Please submit an **original plus six (6)** copies of the proposal in 8.5" x 11" three-ring binders. All material should be presented in an 8.5" x 11" portrait format with tabs for each section. Larger



formatted graphic exhibits are acceptable if folded to fit within the 8.5" x 11" three-ring binder.

### **Submitting Multiple Proposals**

Each of the three contracts will be awarded and executed separately. Proposers interested in receiving multiple contracts should submit a separate proposal (including an original and six (6) copies of each proposal) for each concession contract. **Only one proposal bond is required when submitting multiple proposals.** If the proposer is selected as a "Best Responsible Bidder" for more than one contract but wishes to accept only one contract, the proposer may withdraw a proposal from consideration for the contract of the proposer's choice without penalty or forfeiture of the Proposal Bond. However, if the proposer fails to execute the remaining contract, the Proposal Bond may be retained by the State in accordance with the terms and conditions provided herein.

### **Confidentiality of Proposals**

All proposals submitted in response to an RFP become the property of the State and are subject to the requirements of the California Public Records Act (California Government Code Section 6250 et seq.). The proposer must identify in writing all copyrighted material, trade secrets, or other proprietary information the proposer claims are exempt from disclosure under the Public Records Act. Proposers claiming exemption must include the following statement in their proposal:

*The proposer agrees to indemnify and hold harmless the State, its officers, agents, employees, and servants from any claims, liability, or damages against the State, and to defend any action brought against the State for proposer's refusal to disclose such material, trade secrets, or other proprietary information to any party.*

Failure of a proposer to include this statement and/or identify in writing the claimed exempt material shall be deemed a waiver of any exemption from disclosure under the Public Records Act. Requests to review proposal submissions will not be allowed until after an "Intent to Award Contract" notice is published by the State.

### **Withdrawal of Proposals**

Proposals may be withdrawn at any time prior to the proposal closing date and time provided that a written request executed by the proposer or his/her duly authorized representative for the withdrawal of such proposal is filed with the Department. The withdrawal of a proposal shall not prejudice the right of a proposer to file a new proposal prior to the proposal closing date and time. However, once the proposal closing date and time has passed, proposals shall be irrevocable.

## 2.2 EVALUATION PROCESS

### Verification of Proposal Information

The State may obtain credit reports and verify tax form information to further establish the qualifications of any proposer. All proposers may be subject to a personal interview and inspection of his/her business premises prior to award. Proposers should notify bank and business references in writing that a representative from the state will be contacting them concerning the financial and credit information furnished to the Department with the proposal.

### State's Right to Reject Proposals, Waive Defects and Requirements

The State reserves the right to accept or reject any or all proposals, and waive any or all immaterial defects, irregularities, or requirements in the RFP for the benefit of the State, so long as such waiver does not give any proposer a material advantage over other proposers. A proposer shall not be relieved of his/her proposal nor shall any change be made in his/her proposal due to a proposer error.

### Supplemental Information

At its sole discretion, the State reserves the right, but does not have the obligation, to seek supplementary information or clarification from any proposer at any time between the dates of proposal submission/acceptance and the contract award. The State may obtain credit reports and/or make background inquiries to further establish the qualifications of any proposer. Proposers may be required to make a presentation to the Concession Contract Award Board.

### Proposal Evaluation

All proposals received shall be evaluated for form and content in accordance with the requirements of this RFP. The Contract Award Board will evaluate and score each eligible proposal pursuant to the point system and selection criteria as described in the Proposal Instructions and Proposal Evaluation Form. **Proposals not containing all of the items in the Concession Proposal form (DPR 398) may be rejected.**

### Contract Award Board

Concession Contract Award Boards are appointed by the Director of the Department, or his or her representative, and convened to review, evaluate, and rate each proposal received and make a recommendation to the Director regarding the selection of the "Best Responsible Proposer". The Award Board for this contract may include park staff with related expertise, such as Field Division Chief, Deputy Director, Park Design and Construction staff, or District Superintendent, and representatives from other public agencies or the private sector.

### Contract Award

If an award is made, the award for a concession contract will be to the "Best Responsible Proposer" in accordance with Section 5080.23 of the Public Resources Code. The "Best Responsible Proposer" will be the bidder whose proposal passes each of the required elements and receives the highest total score as determined by the

Contract Award Board and approved by the Director. Execution of the awarded concession contract is subject to approval by controlling agencies of the State, which include the Department of General Services and the Attorney General, and will not be binding on the State or the successful proposer until such approval is obtained.

**Protest of Award**

Based on California Code of Regulations, Title 14, Division 3, Chapter 3, Section 4400 and Department of Parks and Recreation policy, within ten (10) days after the Department has issued a notice of intent to award a concession contract for a term in excess of two (2) years following a request for proposals or invitation to bid, any proposer/bidder may file a written statement of protest against awarding of the contract with the Director of the Department. The statement shall be signed by the protestor, shall specify the grounds for the protest and may include a demand for a hearing. Failure to file a verified petition within the ten-day period shall constitute a waiver of the right to protest. Protests must be sent to:

Director  
California Department of Parks and Recreation  
1416 Ninth Street, 14<sup>th</sup> Floor  
P O Box 942896  
Sacramento, California 94296-0001  
Fax: 916-657-3903

A copy of the protest must be served on the Attorney General within the ten-day period by the proposer/bidder. Serve the Attorney General at:

California Department of Justice  
Office of the Attorney General  
Land Law Section  
1300 I Street  
Sacramento, California 95814  
Fax: 916-322-5609

If a protest is timely served and a hearing is demanded, or if the Director on his or her own motion orders a hearing, proceedings shall be conducted according to the Administrative Procedure Act, and the protest statement shall be treated as a statement of issues. Any recommendation or decision of the hearing officer shall be submitted to the Director for approval, adoption, modification, disapproval, or other interlocutory or final action. If a hearing is not so demanded or ordered, the action of the Director shall be final.

## **2.3 CONTRACT EXECUTION**

### **Preparation of Contract**

Subsequent to the award of a contract, if an award is made, the State will prepare a final contract for execution. The contract will contain "exhibits" developed from the selected proposal including the proposal's Operation, Facility Improvement, and Interpretation Plans, as required. Minor changes or modifications to the contract, proposal plans, and contract exhibits may be made prior to execution based on agreement between the State and concessionaire. However, no material change to the contract or its exhibits as presented in the RFP and in the selected proposal may be made.

### **Performance Bond and Insurance**

The successful proposer will be required to submit a Performance Bond and evidence of insurance required under the contract. Failure to submit the bond and/or insurance verification within the time limit presented may be treated as a refusal to execute, if the State so elects. The State may take the Proposer Bond and select the next Best Responsible Proposal.

### **Failure to Sign/Deliver Contract**

A failure of the successful proposer to sign and deliver the contract within thirty (30) days of receipt may be treated as a refusal to execute, if the State so elects. The State may retain the Proposer Bond and select the next Best Responsible Proposal.

## SECTION 3 - THE PROPOSAL

### 3.1 INSTRUCTIONS FOR THE CONCESSION PROPOSAL

A completed Concession Proposal form (also known as DPR 398) and a Proposal Bond will constitute the proposal. Proposer must complete all sections, respond to all questions, and fill in all blanks of the form. Inapplicable questions or blanks must be marked "N/A" or "Not Applicable". Failure to properly complete the form may disqualify the proposal.

The proposal must be clear and unambiguous. It should clearly commit the proposer to enter into a contract with the State to provide the services and other concession improvements as required by this RFP and offered in the proposal. Financial commitments must be made and conditional only on contract execution.

The submission of a proposal shall be deemed evidence that the proposer is aware of the responsibilities of being a concessionaire and have carefully examined State laws relating to California State Park concessions; possessory interest tax as related to concessions; the site(s) selected for said concession; obligations and responsibilities related to local control agencies and permitting requirements; and the proposal instructions, proposal form, and the sample concession contract included herein.

## I. PROPOSER INFORMATION

### A. Proposer Identification

#### Incumbent Factor

The incumbent concessionaire is defined as the individual, partnership, limited liability company (LLC) or corporation that currently operates the concession advertised in this RFP. Such concession operation must be at the same site, comprise the same type of operation(s), and provide substantially the same types of products and services as those specified in the RFP. Incumbent proposals are awarded points based on annual Performance Evaluations (DPR 531) performed by the State. Poor Performance Evaluations may result in negative point scores.

#### Small Business Status

Preference will be granted to proposers properly certified as Small Businesses as defined in Title 2, Section 1896, et seq., California Code of Regulations. To claim this preference, proposals must include a copy of the Small Business Certification and Office of Small Business (OSB) identification number. To ensure a certifiable document, applications should be submitted to OSB well before the proposal closing day and properly identify a business type consistent with this RFP. It is the proposer's responsibility to contact OSB to verify the completeness of the application. Incomplete documents are not certifiable. Proposers may obtain an application for Small Business Certification from:

Office of Small Business and DVBE Certification  
707 Third Street, 1<sup>st</sup> Floor, Room 400  
West Sacramento, CA 95605  
(800) 559-5529 or (916) 375-4940  
FAX (916) 374-4950

Certification will verify that the business is independently owned and operated; not dominant in its field of operation; has its principal office located in California; has officers domiciled in California; and together with affiliates is either a service, construction, or non-manufacturer with 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three (3) years, or a manufacturer with 100 or fewer employees.

#### **B. Business Information**

Select the type of business that describes the proposing entity (Sole Proprietorship, Partnership, Joint Venture, Limited Liability Company or Corporation) and provide the requested information. The type of business must be established prior to submitting a proposal and must not be a condition of receiving the contract. Limited Liability Companies (LLC) must include a copy of their Articles of Organization with the California Secretary of State seal (LLC-1 or LLC-5) and the Statement of Information (LLC-12) to identify the managing member or members of the Organization.

#### **C. Individual Information**

This section must be completed by each individual, partner, and member of joint ventures; CEO, officers, and holders of 25% or more of the company's shares for corporations; concession manager; and the managing member(s) of the organization identified on the LLC-12 for a limited liability company. The aforementioned identified individual(s) must also complete and sign the Authorization to Release Information in Section IV.

#### Experience

For the purposes of this RFP, proposers must have a minimum of two (2) years' experience owning, managing, or operating a business of similar size, type, and scope as the concession operation set forth and envisioned by this RFP. Proposals with less than the minimum experience will be disqualified. The proposer will be rated according to the years of relevant experience as verified by references. In addition, points are awarded for experience contracting with public agencies.

Provide a narrative describing in detail the duration, extent, and quality of the proposer's education and business experience with special emphasis on the experience and qualifications related to the subject concession. Be specific with respect to the type and dates of experience, the proposer's role in the management and specific duties, type and size of operation, quality of operation, public agency involvement, contractual relationships, and other factors that demonstrate an ability to successfully operate the proposed concession. Attach additional information as needed.

**D. Statement of Financial Capability**

Proposers must present evidence satisfactory to the State demonstrating their ability to finance, construct, operate, and maintain the concession facilities as proposed. The proposer's statement of financial capability must include the source of funding and detailed information including:

Source of funding and cost of concession development: Identify and describe the specific source of funding that the business will use to undertake the project as proposed. If funds are to be used from outside sources (i.e., parent company, third party, LLC partners, etc.), provide documentation, such as a recent bank statement, balance sheet, income statement, and/or other supporting documents, to demonstrate these funds are available and unconditionally committed to this concession project. In addition, if funds are to be borrowed to finance any portion of the total investment, proposer must provide loan commitment documentation such as a letter-of-intent from the individual, bank, or other lending entity indicating the minimum amount to be loaned and any applicable percentage rate. The loan commitment may contain the qualification that the loan will be consummated only upon award of an agreement with the State, otherwise the commitment must be irrevocable and unconditional.

Business Financial Statement: Use the Business Financial Statement to describe the current and true condition of the business' assets, liabilities, and net worth, round figures to the nearest dollar. If the business is a partnership or joint venture, each general partner or joint venturer must individually submit a Business Financial Statement. Proposer may provide copies of forms filed with the Internal Revenue Service, where applicable.

**E. Credit Worthiness**

Proposers must present evidence of credit worthiness. At a minimum, evidence should include a credit report issued by a nationally recognized credit bureau within 60 days of the proposal due date and include the FICA score. Any derogatory information listed on said reports must be explained. Below average FICA scores, outstanding debts, delinquent payment history on current concession contracts, and any other derogatory information may disqualify a proposal.

**F. References**

Financial, client, and vendor references are used to confirm information provided by proposers and to evaluate the proposer's quality of experience and past performance. Proposers should submit one reference for each reference type required below. However, to adequately substantiate the claims made in the proposal, proposers are encouraged to provide three references that are familiar with the individual and business. Proposers should notify their references in writing that a representative from the State will be contacting them.

For the purposes of this RFP, proposers should provide the references from the following sources:

- Financial References: Include the bank or savings and loan institution.
- Client or Business References: Name clients or other persons that most accurately reflect the business performance and ability to fulfill contract obligations with other entities for the provision of goods and services.
- Vendor References: Proposers should provide vendor references if they are a pre-existing business currently utilizing vendors.

## **II. PROPOSAL INFORMATION**

Provide an Operation, Facility Improvement, and Interpretive Plan (as required) that addresses each of the checked elements in the Concession Proposal form (DPR 398). Each element of the Concession Proposal is described below. Proposers may submit additional information to describe and enhance their proposal.

### **A. Operation Plan**

The Operation Plan should address the following elements and must demonstrate an understanding of and commitment to achieving the objectives of this RFP. Greater consideration will be given to proposals that demonstrated proposer's ability and commitment to implement the plan and provide high-quality goods and services that are consistent with the intent of the RFP and the mission of the park. The proposal must also adhere to the operational requirements as described in the Sample Contract.

#### Vision/Mission Statement

The Vision/Mission Statement should capture both the State's and proposer's goals and objectives for the concession business and provide a clear philosophy.

#### Organizational Structure

Provide an organization chart and staffing plan that can guide the operation and ongoing management of the concession business. The plan should identify and define all job classifications to be used and the required job skills and qualifications. Describe the assignments, duties, and schedules for each staffing level considering contract requirements, the proposed hours of operation (see Sample Concession Contract), and any unique seasonal and peak use circumstances.

#### Transition/Business Start-Up

Describe a plan and timeline for starting concession operation and providing a seamless transition in customer service.

#### Maintenance and Housekeeping

Provide a comprehensive plan to maintain the concession facilities in a first-class, safe and sanitary condition throughout the term of the contract in accordance with all requirements and standards set forth in Section 19, Exhibits K, and Exhibit L of the Sample Contract. The maintenance plan should include budget allocations, staff skills and qualifications, staffing patterns, and housekeeping and maintenance schedules. All housekeeping and maintenance shall be at Concessionaire's own cost and expense per Section 19 of the Sample Contract.



### Customer Service

Demonstrate an ability and clear commitment to successfully implement an effective customer service program. The plan should include, but is not limited to, previously established and effective customer service program models, adequate employee staffing and management oversight, hours of operation equal to or greater than required by this RFP, and a customer satisfaction feedback survey program.

### Employee Staffing and Training

Employee policies and training program should include, but are not limited to, personnel policies; hiring practices; health, safety, and grievance policies and procedures; uniform policies and requirements; business orientation; job training; and park orientation training. Such programs must provide sufficient staffing with the skills, capabilities, and training to ensure the provision of uninterrupted, high-quality services to all park visitors.

### Marketing and Advertising

The marketing program should include, but is not limited to, proposed approaches, methodologies, media, advertising materials, schedules, and budget allocations.

### Community Involvement

Commit to creating added value and benefits to the surrounding community and park visitors. This may include special events, educational programs, and community service activities. In addition, proposer should identify the special skills, knowledge, and resources needed and available to implement the plan.

### Products, Merchandise, and Services

Provide a detailed description of the proposed products, merchandise, sample menus, and services to be provided by the concession operation. Sales items and/or food products must be high quality and the selection varied. The products and services offered should meet or exceed the needs of the park users, and be compatible with and complementary to the mission of the park.

### Prices and Pricing Policies

Provide a price schedule for a representative sample of the products and services proposed. The plan should include a definitive description and explanation of the policies to be used to establish prices for products, and services. The policies should clearly demonstrate the relationship of pricing to product quality and quantities. Implementation of these policies should provide park visitors with quality products at reasonable prices considering the competition of comparable markets for similar products, services and cost of doing business. Pricing policies should consider Sample Contract Section 4 Rent; and Section 13 Rates, Charges and Quality of Goods and Services.

### Conservation and Recycling

Outline the proposer's approach to solid waste management, including reduction, re-use, and recycling, use of post-consumer recycled products, water and energy

conservation, pest management, hazardous materials handling, air quality, and other applicable facets of resource conservation and environmental protection that are applicable to the concession operation. The plan should clearly commit proposer to a program that will minimize negative impacts on the environment and encourage park visitors to do the same.

#### Accessibility

Commit to ensuring that visitors with disabilities will have access to all of the services provided through the concession operation in accordance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, and California Government Code Sections 4450 et. seq. and 7250. Additional accessibility resources are available at [www.ada.gov](http://www.ada.gov), [http://www.parks.ca.gov/?page\\_id=21944](http://www.parks.ca.gov/?page_id=21944) (State Parks Accessibility Program); and [http://www.parks.ca.gov/?page\\_id=22651](http://www.parks.ca.gov/?page_id=22651) (All Visitors Welcome handbook).

#### Healthy Foods Initiative

For proposers submitting a proposal for the Swartz/Heynemann Building, an important goal for this contract is the promotion of a healthy lifestyle in an environmentally-sustainable manner. Proposers should consider providing locally grown, sustainably harvested healthy snack options in support of the State's Healthy Foods Initiative.

As a condition of the contract award, the successful proposer may be required to revise or further develop the Operation Plan to the satisfaction of the State and prior to the execution of the contract. If and when it is accepted, the final plan will be incorporated as an exhibit to the contract and become an obligation of the concessionaire.

### **B. Facility Improvement Plan**

The Facility Improvement Plan should address the following elements and meet or exceed the objectives of this RFP to provide high-quality and accessible facilities. Greater consideration will be given to those proposals that clearly demonstrate an ability to implement the plan. In addition, the successful proposer must adhere to the facility requirements as described in the Sample Contract.

#### Furnishings

Describe the intended physical facilities of the concession including furnishings, equipment, décor, and layout. Include drawings, pictures, and diagrams to illustrate and clarify the plan. Implementation of proposer's plan should provide first-class concession facilities that are consistent with park values and will enhance visitor services at the park.

#### Facility Development

Describe facility improvements as required by the RFP. Include the resumes of the proposed architects and contractors to be used and descriptions and/or schematic drawings of the work to be accomplished and items to be installed. Proposer may submit lists, drawings, pictures, and diagrams to illustrate and clarify the plans. At minimum, the plan must address the following facility improvements:

As necessary, modify a portion or add sales counter area so that for every 12' or fraction thereof of counter length, a portion of the counter is at least 36" wide and 28"-34" high, per California State Parks (CSP) Accessibility Guidelines. CSP Accessibility Guidelines are available at:

[http://www.parks.ca.gov/pages/21944/files/ca\\_stateparksaccessguiderev\\_titlepagewithdisclaimer.pdf](http://www.parks.ca.gov/pages/21944/files/ca_stateparksaccessguiderev_titlepagewithdisclaimer.pdf).

For Pop Konrad's Garage: Purchase and install a historic wood or pellet burning stove to be approved by State Parks staff. Stove will become property of State Parks. Concessionaire may abate, at State's discretion, the Minimum Annual Rent in Contract Year One (1) up to Five Thousand Dollars (\$5,000) towards the pre-approved and verified expense of the purchase and installation of the stove.

#### Implementation

Describe proposer's plan, method, and commitment to meeting the Facility Improvement Plan. Specify the timeline for completion of any capital improvements and installation of said décor and equipment prior to the commencement of operation.

#### Cost Estimates

Provide a cost breakdown for the Furnishings Plan and/or Facility Development Plan.

As a condition of the contract award, the successful proposer may be required to revise or further develop the Facility Improvement Plan to the satisfaction of the State and prior to the execution of the contract. After the State's review and approval, the Facility Improvement Plan from the successful proposal shall be included as an exhibit to the contract

### **C. Interpretive Plan**

Interpretation is a mission-based communication process that forges emotional and intellectual connections between the interests of the audience and meanings inherent in the resource. The Interpretive Plan should address each of the following elements, demonstrate an understanding of the park's interpretive programs, and communicate how the Plan will contribute to the overall interpretive messages of the park. The goal is to achieve a park visitor experience, through look, feel, and ambience, of stepping back in time to the California Gold Rush days between 1850 and 1870 in Columbia.

Proposals may include drawings and pictures to illustrate and clarify the plan. Greater consideration will be given to proposals that integrate the park's interpretive themes into the daily operation of the concession. Resources for the development of an Interpretive Plan are available: *Workbook for Planning Interpretive Projects in California State Parks* at [www.parks.ca.gov/pages/735/files/interpprojectworkbook.pdf](http://www.parks.ca.gov/pages/735/files/interpprojectworkbook.pdf), and *Guide for Preparing a Furnishing Plan: Furnishing and Interpreting Historic Structure Museums* at [www.parks.ca.gov/pages/735/files/Guide\\_for\\_Preparing\\_Furnishing\\_Plan.pdf](http://www.parks.ca.gov/pages/735/files/Guide_for_Preparing_Furnishing_Plan.pdf).

A list of general interpretive considerations that can significantly affect the look, feel, and ambience of the interpretive period is provided below:

- ☐ Exterior lighting
- ☐ Signage
- ☐ Hangtags (product)
- ☐ Displays and Casework
- ☐ Counters
- ☐ Wood coverings over cash register and other modern intrusions
- ☐ Brown paper and twine for packing product
- ☐ Paint hues and type (i.e. milk paint)
- ☐ Consideration of type of window treatments
- ☐ Period print advertising
- ☐ Appropriate/period product line(s)
- ☐ Eliminate plastic, cardboard, pressboard, Styrofoam (and other modern packaging)
- ☐ Period exterior surfaces, walkways, sides of buildings
- ☐ Product labels
- ☐ Staff period attire
- ☐ Period style seating
- ☐ Period demonstrations/activities/events
- ☐ Interpretive panels and information

The following references are available for purchase at the Calaveras Sector office to help develop an interpretive plan:

- |    |   |         |
|----|---|---------|
| 1. | Gold Rush Merchant's Manual (2 vols.)   | \$15.00 |
| 2. | The Old Town San Diego Retailer's Reference   | \$15.00 |
| 3. | Period Fashions for Men/Women   | \$ 5.00 |
| 4. | The Baker's Handbook  | \$10.00 |
|    | (or download at <a href="http://www.parks.ca.gov/pages/735/files/Bakers_Handbook.pdf">http://www.parks.ca.gov/pages/735/files/Bakers_Handbook.pdf</a> ) |         |
| 5. | Columbia SHP General Plan   | \$10.00 |
|    | (or download at <a href="http://www.parks.ca.gov/pages/21299/files/307.pdf">http://www.parks.ca.gov/pages/21299/files/307.pdf</a> )                     |         |
| 6. | Old Sacramento Historic District, A Guideline For Signs   | \$15.00 |
| 7. | Building Histories  | Free    |

A reference list is provided in Section 3.4 of this RFP to further aid in the development of the Interpretive Plan.

#### Proposer's Relevant Experience

Describe proposer's experience, knowledge, skills, and abilities to develop and operate an interpretive program.

#### Business' Interpretive Theme

Describe the interpretive theme of the business, including the specific years to be interpreted for the building's 1850-1870 interpretive period. More information about Columbia's interpretive themes can be found in the *Columbia SHP General Plan*, pages 70-71. Also, see *Workbook for Planning Interpretive Projects in California State Parks*, pages 49-50 for more information on interpretive themes.

**Interpretive Programs and Activities**

Describe plans for interpretive programs and activities. Interpretive activities should be conducted on a regular basis, integrating concession activities with the historic daily duties of a shopkeeper of the interpretive period. Describe plan to provide an interpretive program for multi-ethnic, multi-generational visitors.

**Business' Ambiance**

Describe plan to develop and implement historical ambiance including such things as historic characterizations, environment, costumes, furnishings, signs, wall treatment, advertising, window coverings, equipment, tools, display shelves, counters, tables, chairs, and product packaging.

**Primary Education**

Describe plan to provide an educational experience to school age (K-8) children with an emphasis on 4<sup>th</sup> grade California history. For a State Park program to be considered educational, it must conform to academic content standards established by the Department of Education at <http://www.cde.ca.gov/be/st/ss/> and <http://www.cde.ca.gov/be/st/ss/documents/histsocscistnd.pdf>. The most relevant content standards for Columbia are the History/Social Science content standards for grade 4, but the interpretive plan may include other grades and subject areas as well.

As a condition of the contract award, the successful proposer may be required to revise or further develop the Interpretive Plan to the satisfaction of the State and prior to the execution of the contract. After the State's review and approval, the Interpretive Plan from the successful proposer shall be included as an exhibit to the contract

**D. Rental Offer**

The concessionaire will be required to pay as rent the greater of a Minimum Annual Rent or a Percentage of Gross Receipts. Proposers shall bid both the Minimum Annual Rent and the Percentage of Gross Receipts as specified in the Concession Proposal form (DPR 398). For the purposes of this RFP, the Rental Offer must be at least Minimum Annual Rent and the Percentage of Gross Receipts as shown in the table below. Any offer below the minimum rent requirements will result in proposal disqualification.

<b>Location</b>	<b>Minimum Annual Rent</b>	<b>Percent of Gross Receipts Rent</b>
Swartz / Heynemann Building 22760 Main Street	\$12,000	7%
Pop Konrad's Garage 22719 Broadway Street	\$6,000	4%
McChesney / IOOF Building 11198 State Street	\$3,000	4%

**E. Concession Feasibility**

Document proposer's ability to successfully initiate the proposed concession in a financially responsible manner in accordance with the terms and conditions of the Sample Contract, and the Operation, Facility Improvement, and Interpretive Plans (as applicable). This information must substantiate proposer's ability to: develop, furnish, equip, operate and maintain the concession in a high-quality manner; provide the public with quality products and services at reasonable and competitive prices; pay the State the rental offered; and provide a reasonable return on the investment. Fiscal documentation that will be considered in awarding points includes a financial pro forma; statement of assets and liabilities; business, vendor, bank, and/or financial references; and similar documents.

**III. PROPOSAL SUMMARY**

The Proposal Summary should summarize relevant experience, knowledge, and expertise, and the Operation, Facility Improvement, and Interpretive Plans (as applicable) in 250 words or less.

**IV. CERTIFICATION OF PROPOSER INFORMATION****A. Labor Law Compliance Certification**

A request may be made to the National Labor Relations Board for information regarding Administrative Hearing decisions against each proposer. Proposer must have no more than one final, un-appealable finding of contempt of court by a federal court issued for violation of the National Labor Relations Act within the two-year period immediately preceding the closing date of this RFP or the proposal will be disqualified.

**B. Proposer Certification**

A completed certification is required with the proposal or it will be disqualified.

**C. Authorization to Release Information**

A signed authorization for each individual, partner, member of joint ventures, officer of corporations, Concession Manager, and holders of 25% or more of the company's shares (as applicable) must be included or the proposal will be disqualified.

**V. PRIVACY NOTICE**

This section provides notice to proposers. No action by proposers is necessary.

### 3.2 PROPOSAL EVALUATION CRITERIA

#### Incumbent Preference

**5 Points**

Incumbent proposals are awarded points based on Annual Performance Evaluations (See DPR 531 in the Sample Concession Contract) performed by the State as follows:

Overall Rating of Evaluation	Number of Years Rating Was Received	Points Awarded
"Excellent"	3 out of last 3 years	5 points
"Excellent" with no "needs improvement" or "unsatisfactory"	2 out of last 3 years	3 points
"Excellent" with no "needs improvement" or "unsatisfactory"	1 out of last 3 years	2 points
Satisfactory	3 out of last 3 years	1 point
"needs improvement" or "unsatisfactory"	1 out of last 3 years	- 1 point
"needs improvement" or "unsatisfactory"	2 out of last 3 years	- 3 points
"needs improvement" or "unsatisfactory"	3 out of last 3 years	- 5 points

#### Small Business Preference

**5 Points**

Five points will be awarded to those proposers who have a complete and certifiable application on file with the Office of Small Business Certification.

#### Experience

**10 Points**

For the purposes of this RFP, proposers must have a minimum of two (2) years' experience owning, managing, or operating a business of similar size, type, and scope as the concession operation set forth and envisioned by this RFP. The proposer will be rated according to the years of relevant experience as verified by references and the quality of experience as it relates to the business described in this RFP. In addition, points are awarded for experience contracting with public agencies. Greater consideration will be given to proposers who have experience in operating a business in a historic property or have some familiarity with the basic concepts of preservation and the importance of respecting historic fabric and character defining features.

#### Operation Plan

**25 Points**

A maximum of twenty-five (25) points will be awarded based upon the degree to which the proposal addresses each of the elements described in Section II Proposal Information and identified in the DPR 398, Concession Proposal.

**Facility Improvement Plan****15 Points**

A maximum of fifteen (15) points will be awarded based upon the degree to which the proposal addresses each of the elements described in Section II Proposal Information and identified in the DPR 398, Concession Proposal.

**Interpretive Plan****25 Points**

A maximum of twenty-five (25) points will be awarded based upon the degree to which the proposal addresses each of the elements described in Section II Proposal Information and identified in the DPR 398, Concession Proposal.

**Rental Offer****15 Points**

For the purpose of assigning points in the Proposal Evaluation, the highest acceptable rental offer\* for each category of rent required (Minimum Annual Rent and Percentage of Gross Receipts) will be assigned the maximum points available for that category. Each lower rental offer will be assigned points in relation to the highest rental offer as follows:

Minimum Annual Rent (Minimum bid is in Section 3.1, II, D Rental Offer)

$$\frac{(\text{Bid Amount}) \text{ minus } (\text{Minimum Annual})}{(\text{Highest Bid Amount}) \text{ minus } (\text{Minimum Annual})} \times 8 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

Percentage of Gross Sales (Minimum bid specified in Section 3.1, II, D Rental Offer)

$$\frac{(\text{Bid Amount})}{(\text{Highest Bid Amount})} \times 7 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

\*Note: the highest bids received may not be considered acceptable. Proposers may be required to prove to the satisfaction of the State their ability to operate a successful business under their rental offer. Failure to prove this ability will be cause to disqualify the proposal. In this case, the second highest acceptable bid would be used to calculate points awarded.



### 3.3 PROPOSAL EVALUATION SHEET

#### LEVEL I COMPLIANCE WITH RFP REQUIREMENTS

##### PROPOSER QUESTIONNAIRE

##### I. PROPOSER INFORMATION

- A. Proposer Identification \_\_\_\_\_ (pass/disqualify)
- B. Business Information \_\_\_\_\_ (pass/disqualify)
- C. Individual Information-Experience \_\_\_\_\_ (pass/disqualify)
- D. Statement of Financial Capability \_\_\_\_\_ (pass/disqualify)
- E. Credit Worthiness \_\_\_\_\_ (pass/disqualify)
- F. Financial/Business/Vendor References \_\_\_\_\_ (pass/disqualify)

##### II. PROPOSAL INFORMATION

- A. Operation Plan \_\_\_\_\_ (pass/disqualify)
- B. Facility Improvement Plan \_\_\_\_\_ (pass/disqualify)
- C. Interpretive Plan \_\_\_\_\_ (pass/disqualify)
- D. Rental Offer \_\_\_\_\_ (pass/disqualify)
- E. Concession Feasibility \_\_\_\_\_ (pass/disqualify)

##### III. PROPOSAL SUMMARY \_\_\_\_\_ (pass/disqualify)

##### IV. CERTIFICATION AND AUTHORIZATION

- A. Labor Law Compliance Certification \_\_\_\_\_ (pass/disqualify)
- B. Proposer Certification \_\_\_\_\_ (pass/disqualify)
- C. Authorization to Release Information \_\_\_\_\_ (pass/disqualify)

##### PROPOSER BOND \_\_\_\_\_ (pass/disqualify)

*Proposer must pass LEVEL I to qualify for further consideration.*

**LEVEL II RENT PROPOSED/CREDIT WORTHINESS & ABILITY TO FINANCE**

- A. Rent Proposed Met/Exceeded Minimum Requirement \_\_\_\_\_ (pass/disqualified)
- B. Ability to Finance \_\_\_\_\_ (pass/disqualified)
- C. Credit Worthiness \_\_\_\_\_ (pass/disqualified)
- D. Compliance with National Labor Relations Act \_\_\_\_\_ (pass/disqualified)

*Proposer must pass LEVEL II to qualify for further consideration.*

**LEVEL III PROPOSAL EVALUATION**

- A. Proposer Information
- Incumbent Preference \_\_\_\_\_ / 05 Points
  - Small Business Preference \_\_\_\_\_ / 05 Points
  - Experience \_\_\_\_\_ / 10 Points
- B. Proposal Information
- Operation Plan \_\_\_\_\_ / 25 Points
  - Facility Improvement Plan \_\_\_\_\_ / 15 Points
  - Interpretive Plan \_\_\_\_\_ / 25 Points
  - Rental Offer \_\_\_\_\_ / 15 Points
  - Concession Feasibility \_\_\_\_\_ / Pass/Fail \*
- GRAND TOTAL** \_\_\_\_\_ / **100 Points**

Comments:

Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

\* A 'fail' rating in this category disqualifies the proposal.

### **3.4 RFP REFERENCE MATERIALS**

#### **REFERENCES FOR HISTORIC-STYLE CONCESSIONS IN COLUMBIA STATE HISTORIC PARK**

##### **Accessibility**

All Visitors Welcome: Accessibility in State Park Interpretive Programs and Facilities by Erika Porter. Published by the California Department of Parks and Recreation. Rev ed. 2011\* <http://www.parks.ca.gov/pages/735/files/allvisitorswelcome-2011%206th%20ed.pdf>

California State Parks Accessibility Guidelines. Published by the California Department of Parks and Recreation. Rev ed. 2009\*

##### **Advice for Merchants**

Old Town San Diego Retailer's Reference and Historic Account Book, Or, Advice for Merchants Re-creating a c.1821-1872 Store by Mary A. Helmich. Published by the California Department of Parks and Recreation, 1993\*

##### **Historic Sign Guidelines**

Old Sacramento Historic District, A Guideline for Signs, 1849-1875 Published by the City of Sacramento\*

##### **Historic Clothing and Fabrics**

Dating Fabrics: A Color Guide, 1800-1960. By Eileen Jahnke Trestain. American Quilter's Society, Paducah, KY, 1998.

Textiles for Early Victorian Clothing, 1850-1880: A Workbook of Swatches & Information. By Susan W. Greene. Q Graphics Production Company, 2002.

Isabella's Work dress Pattern, Fancy Dry Goods & Clothing Store in Columbia State Historic Park / Chili 'n Crackers. <http://home.mlode.com/~jimnlindy/patterns.html>

Past Patterns—period patterns for clothing 1830 to 1820. (866) 738-8426 or [www.paspatterns.com](http://www.paspatterns.com)

“...With Our Rig on...” A brief review of the costume of Americans in the California Gold Rush. Part 1: Caps, Hats and Overshirts. Written and illustrated by Jim Miller. Chile-n-Crackers, Columbia.

Thoughts on Men’s Shirts in America, 1750-1900. By William L. Brown III. Thomas Publications, Gettysburg, PA, 1999.

Who Wore What? 1861-1865 Clothing by Juanita Leich. Published by Thomas Publications, Gettysburg, PA, 1995.

Gohn Brothers Clothing - broadfalls and men's plain dress.

[www.nonviolence.org/martink/goohn\\_brothers\\_broadfalls\\_mens\\_plain\\_dress.php](http://www.nonviolence.org/martink/goohn_brothers_broadfalls_mens_plain_dress.php)

## **Interpretation**

Environmental Interpretation: a Practical Guide for People with Big Ideas and Small Budgets by Sam Ham. Published by North American Press.

Past into Present: Effective Techniques for First Person Historical Interpretation by Stacy Roth. University of North Carolina Press, Chapel Hill, 1998.

Interpretation of Historic Sites. By William T. Alderson and Shirley Payne Low. American Association for State and Local History, Nashville, TN.

**\*Noted publications may be located through the California State Parks website [www.parks.ca.gov](http://www.parks.ca.gov) or may be purchased through the Sector office at 11255 Jackson Street, Columbia, CA 95310, telephone 209/536-2917.**

### **3.5 CONCESSION PROPOSAL, DPR 398**

Parties interested in submitting a proposal, please request the DPR 398 Concession Proposal form from Peggy Harwell at (209) 536-2917 or [pharwell@parks.ca.gov](mailto:pharwell@parks.ca.gov). This provides the State with potential proposer contact information in the event there are changes to the RFP documents. Proposal forms will also be available at the Pre-Proposal Meeting.

## **SAMPLE CONCESSION CONTRACT**

CONCESSION CONTRACT

FOR

**Swartz/Heynemann Building, Pop Konrad's Garage, or  
McChesney/IOOF Building  
Historic-Style Specialty Retail Concession**

AT

Columbia State Historic Park  
Tuolumne County

STATE OF CALIFORNIA – RESOURCES AGENCY  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS, RESERVATIONS, & FEES DIVISION  
1416 NINTH STREET, 14<sup>TH</sup> FLOOR  
SACRAMENTO, CA 95814



**Swartz/Heynemann Building, Pop Konrad's Garage, or  
McChesney/IOOF Building  
Historic-Style Specialty Retail Concession  
CONCESSION CONTRACT**

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STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION

**CONCESSION CONTRACT**

For

**Swartz/Heynemann Building, Pop Konrad's Garage, or  
McChesney/IOOF Building  
Historic-Style Specialty Retail Concession**

Located In

Columbia State Historic Park

Tuolumne County

THIS CONTRACT is made and entered into by and between the STATE OF CALIFORNIA, acting through its Department of Parks and Recreation, hereinafter referred to as "State," and **ConcessionaireName DBA FictitiousBusName** of CityState, hereinafter referred to as "Concessionaire";

**RECITALS**

**WHEREAS**, California Public Resources Code Section 5080.03 et seq. authorizes the Department of Parks and Recreation to enter into concession contracts for the operation of state park system lands and facilities and;

**WHEREAS**, it is appropriate that the following contract be entered into for the safety and convenience of the general public in the use and enjoyment of, and the overall enhancement of recreational and educational experience at units of the state park system;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

**1. DESCRIPTION OF PREMISES**

The State for and in consideration of the agreements hereinafter stated, grants to Concessionaire for the purposes stated herein, the right, privilege, and duty to develop, equip, operate, and maintain a nonexclusive concession in Columbia State Historic Park at the location(s) as set forth in **Exhibit A**, attached to and made a part of this Contract (the "Premises").

The possessory interest herein given to the Concessionaire does not exclude the general public from the Premises; however, the use by the general public is limited by the terms and conditions of the possessory interest given herein. This Contract is not intended to confer third party beneficiary status to any member of the public who is benefited by the terms of this Contract. The possessory interest is further subject to all valid and existing contracts, leases, licenses, encumbrances, and claims of title that may affect the Premises.

**2. CONDITION OF PREMISES**

The taking of possession of the Premises by the Concessionaire, in itself, shall constitute acknowledgment that the Premises are in good and sufficient condition for the purposes for which Concessionaire is entering into this Contract. Concessionaire agrees to accept Premises in their presently existing condition, "AS IS," and that the State shall not be obligated to make any alterations, additions, or betterments to the Premises except as otherwise provided for in this Contract.

**3. TERM**

The term of this Contract shall be for a period of five (5) years with State's option to extend the Contract an additional five (5) years, commencing on the first day of the month following approval by the California Department of General Services. Should Concessionaire hold-over after the expiration of the term of this Contract with the express or implied consent of the State, such holding-over shall be deemed to be a

tenancy from month-to-month at the herein stated prescribed rent as set forth in this Contract in Section 32, Surrender of Premises; Holding Over, of this Contract, with continuous Consumer Price Index adjustment, as defined below, subject otherwise to all the terms and conditions of this Contract.

For purposes of this Contract, the term "Contract Year" shall mean each one-year period of time that commences on the commencement date identified above, extending twelve (12) months therefrom, and continuing from each anniversary throughout the term of the Contract.

#### 4. **RENT**

Concessionaire shall pay, without offset, deduction, prior notice, or demand, as "Minimum Annual Rent":

The sum of Twelve Thousand Dollars (\$12,000) [or as bid] annually or Seven Percent (7%) [or as bid] of monthly gross receipts, whichever sum is greater (for Swartz/Heynemann Building); or

The sum of Six Thousand Dollars (\$6,000) [or as bid] annually or Four Percent (4%) [or as bid] of monthly gross receipts, whichever sum is greater (for Pop Konrad's Garage); or

The sum of Three Thousand Dollars (\$3,000) [or as bid] annually or Four Percent (4%) [or as bid] of monthly gross receipts, whichever sum is greater (for McChesney/IOOF Building).

Beginning with Contract Year Six (6) and on the first day of each fifth Contract Year thereafter, the Minimum Annual Rent (\$\$\$\$) shall be adjusted to reflect changes in the Consumer Price Index (CPI). Such CPI adjustments shall be made in accordance with the procedure set forth in **Exhibit B**, attached to and made a part of this Contract.

For Pop Konrad's Garage: In accordance with Contract Section 23 Equipment, Concessionaire may abate, at State's discretion, the Minimum Annual Rent in Contract Year One (1) up to Five Thousand Dollars (\$5,000) towards the pre-approved and verified expense of the purchase and installation of a stove.

Concessionaire shall make payment of Minimum Annual Rent and other payments to State in lawful money of the United States. However, if any payment made

by a check, draft, or money order is returned to State due to insufficient funds or otherwise, State shall have the right, at any time after the return, upon written notice to Concessionaire, to require Concessionaire to make all subsequent payments in cash or by cashier's or certified check.

Beginning with the fifteenth (15<sup>th</sup>) day of the month following the execution of the Contract, and on or before the fifteenth (15<sup>th</sup>) day of each month thereafter, Concessionaire shall furnish to State a verified statement of the concession's gross receipts for the preceding month. Such statement shall be submitted on Form DPR 54, Concessionaire's Monthly Report of Operation, attached hereto as **Exhibit C**, or in a format previously approved by the State, and shall specify the current period and cumulative total of gross receipts for the concession through the end of the preceding month for the then current Contract Year. Concessionaire shall also provide such statement for periods of non-operation. Concurrent with such monthly statement, the Concessionaire shall pay to State the appropriate rental fee based on the gross receipts for the preceding calendar month as prescribed above. Payments to State shall be made to the order of the Department of Parks and Recreation and delivered to the District Office identified herein below or at such other location as may from time to time be designated by State. If, at the end of the Contract Year, the total of monthly percentage rental payments made (or due) during that Contract Year is less than the Minimum Annual Rent required for that Contract Year, the difference shall be remitted to State with the last monthly sales statement for the Contract Year. Payments must be received by State on or before the fifteenth (15<sup>th</sup>) day of the month as described above. Any late payment shall constitute a breach of contract, giving rise to State's remedies as set forth below. Further, any late payment will be subject to a late penalty consisting of an administrative charge on the late amount, calculated at the rate of five percent (5%) of the amount of the late payment or portion thereof. The parties agree that the late charge represents a fair and reasonable estimate of the costs State will incur because of late payment. Acceptance of the late charge by State shall not constitute a waiver of Concessionaire's default for the overdue amount, nor prevent State from exercising the other rights and remedies granted under this Contract. Concessionaire shall pay the late charge as additional rent with the next monthly rent payment.

\_\_\_\_\_ **[Initials of concessionaire(s)]**

Any amount due to State, if not paid within five (5) days following the due date, will bear interest from the due date until paid at the rate of ten percent (10%) per year. However, interest shall not be payable on late charges incurred by Concessionaire, nor on any amounts on which late charges are paid by Concessionaire. Payment of interest shall not excuse or cure any default by Concessionaire.

Upon written request by the Concessionaire to State demonstrating unusual or extenuating circumstances causing the late payment, the State, in its sole discretion, may waive the late charge. Further, in the event Concessionaire is prevented from carrying on the operations contemplated herein by reason of an Act of Nature or other reasons beyond Concessionaire's control, and when requested in writing in advance by Concessionaire, Minimum Rent may be abated in proportion to the amount by which gross receipts are reduced by the occurrence for such period of reduced or non-operation, as determined in the sole discretion of State.

If this Contract is terminated by State because of Concessionaire's default, and if Concessionaire becomes liable for any deficiency in rent and/or fees by way of damages or otherwise, or if at any time during the Contract term Concessionaire ceases to conduct in the Premises the business referred to herein below, then from and after the time of the breach causing this termination, or from and after the time of the cessation of business, all unpaid rent and/or fees prior to the breach causing termination or cessation of business shall become due and payable. The amount due shall be deemed to be the greater of: (a) the Minimum Rent provided herein, or (b) an amount based upon the average of the payments that have accrued to State as percentage rent during the twenty-four (24) months preceding the termination or cessation of business, unless the termination or cessation occurs within three (3) years of the beginning of the Contract term, in which event the previous twelve (12) (or fewer, if applicable) months shall be used as the basis of this average.

## **5. USE OF PREMISES**

The Premises shall be used by the Concessionaire for the operations of a historic-style specialty retail concession (historic-style specialty food/retail concession

for the Swartz/Heynemann Building) consistent with the State approved “Operation Plan”, “Facility Improvement Plan”, and “Interpretive Plan” as proposed by Concessionaire and modified by State as is reasonable and necessary to meet the intention of the State for this concession operations and the mission of the Department. The “Operation Plan”, “Facility Improvement Plan”, and “Interpretive Plan” are incorporated herein and made part of this contract as **Exhibits D, E, and F** respectively.

A. Interpretive Period: Concessionaire shall provide a retail operation that creates and perpetuates as closely as possible the early days of Columbia (from 1850-1870 during the California Gold Rush and of the years immediately following) with a variety of innovative, interpretive and educational services that preserve, restore, reconstruct and interpret the original historic landscape, features, buildings, objects, people, customs and activities. All aspects of the concession’s décor and ambiance, including furnishings, lighting, counters, shelving, window treatments, display pieces, music, retail product, and interior and exterior signage, shall be appropriate to the Interpretive Period. Modern equipment shall be disguised or hidden from public view; this includes but is not limited to cash registers, fans, and credit card machines. Music, live or pre-recorded, must be appropriate to the interpretive period and audible only within the boundary/footprint of the concessions facility. All concession employees visible to or engaging with the public shall be dressed in attire appropriate to the Interpretive Period and the retail business being depicted. Music that is not of the time period, such as contemporary music, is not allowed. All entertainers must be in historic period attire and play instruments from the park’s interpretive period unless otherwise approved in writing by the State. Concessionaire shall be solely responsible for any liability associated with licensing and royalties for music.

B. Concession services shall be provided a minimum of seven (7) days per week from Memorial Day through Labor Day, six (6) days per week from April 1 to Memorial Day and from Labor Day through September 30, and five (5) days per week from October 1 through March 31 between the hours of 10 a.m. and 5 p.m. during each calendar year of the Contract. The closed days shall not be on



a weekend or holiday. In the event State deems the hours of operation inadequate for proper service to the public, State may require Concessionaire to adjust the days and/or hours of operation to a schedule provided by State. Concessionaire may remain open on other dates, observing same (or longer) hours, at Concessionaire's discretion with the concurrence of State. In the event of adverse weather or other operating conditions, State may permit the concession to close at any time during the term of this Contract. Concessionaire shall not use or permit the Premises to be used in whole or in part during the term of this Contract for any purpose other than as herein set forth without the prior written consent of the State.

## **6. HEALTHY FOODS INITIATIVE**

This section pertains to food concessions only. As the primary food providers in California State Parks, participation by concessionaires in the State's efforts to promote healthy and sustainable food practices is critical. To that end and in accordance with State's mission to provide for the health of Californians, Concessionaire shall promote the importance of healthy, locally and sustainably grown, organic foods, and shall use sustainable practices, organic ingredients, and recycled products whenever possible. These practices shall include the following:

- A. To the extent possible, Concessionaire shall develop a network of local farmers and ranchers who are dedicated to sustainable agriculture and can assure a steady supply of pure and fresh ingredients.
- B. Concessionaire shall offer a selection of food and beverage items that conform to the definition of healthy foods as defined by the U.S. Department of Agriculture and the Food and Drug Administration in the Code of Federal Regulations, Title 9, Section 317 and Title 21, Section 101.
- C. Concessionaire shall offer a selection of beverages with no sugar added, such as bottled water, natural fruit juices, and tomato juice.
- D. To the extent possible, Concessionaire shall provide food products that are as pure and natural as possible, without synthetic additives, pollutants, or unnecessary packaging and marketing.

**7. BONDS**

A. All bonds required under this Contract must be in a form satisfactory to State, issued by a corporate surety licensed to transact surety business in the State of California.

B. Performance Bond: Concessionaire, at Concessionaire's own cost and expense, agrees to obtain and deliver to State, prior to the commencement date of this Contract and prior to entering the Premises, and shall maintain in force throughout the term of this Contract, a valid Performance Bond (which may be renewed annually) in the sum of Six Months of the Minimum Annual Rent [as bid], payable to the State. This bond shall insure faithful performance by Concessionaire of all the covenants, terms, and conditions of this Contract inclusive of, but not restricted to, the payment of all rentals, fees, and charges and prompt performance of and/or payment for all maintenance obligations. In lieu of a bond, the Concessionaire may substitute another financial instrument (such as an Irrevocable Standby Letter of Credit), which must be sufficiently secure and acceptable to State. At least thirty (30) days prior to the expiration or termination of said bond or acceptable financial instrument, a signed endorsement or certificate showing that said bond or financial instrument has been renewed or extended shall be filed with the State. Within 15 days of State's request, Concessionaire shall furnish State with a signed and complete copy of the valid bond or financial instrument.

C. Concessionaire acknowledges that allowing the Performance Bond or other security instrument(s) to expire or otherwise terminate and/or allowing the total secured amount to fall below the security required herein will cause State to incur costs and significant risks not contemplated by this Contract, the exact amount of which will be difficult to ascertain. These costs include, but are not limited to, administrative costs and other expenses necessary to ensure continued performance of services for the public and protection of the Premises. Accordingly, if Concessionaire allows the Performance Bond or other security instrument to expire or otherwise terminate and/or allows the total secured

amount to fall below the security required pursuant to this Contract, Concessionaire shall pay to State an amount equal to five percent (5%) of the required security or five thousand dollars (\$5,000), whichever is greater. The parties agree that this charge represents a fair and reasonable estimate of the costs State will incur. Acceptance of this charge by State shall not constitute a waiver of Concessionaire's default, nor prevent State from exercising the other rights and remedies available to it under this Contract or applicable law, including the right to terminate this Contract and seek the payment of damages.

\_\_\_\_\_ **[Initials of concessionaire(s)]**

## **8. INSURANCE**

A. Concessionaire shall provide before entering the Premises and shall maintain in force throughout the term of this Contract the following insurance:

- 1) Commercial General Liability Insurance. Concessionaire shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal and advertising injury.
- 2) Automobile Liability. Concessionaire shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of motor vehicles including owned, hired and non-owned motor vehicles used by Concessionaire in the conduct of business under this Contract.
- 3) Workers' Compensation Insurance. Concessionaire shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of this Contract. Employer's liability limits of \$1,000,000 are required.
- 4) Property Insurance. Concessionaire shall provide property coverage for damage caused by fire, vandalism or natural disaster with

limits based on the estimated replacement value of facilities occupied by Concessionaire. Replacement value shall be approved by State.

B. In the event of destruction, loss, or damage by fire or other cause of any of the State-owned buildings, improvements, or fixtures located on the Premises that the State determines (1) to be essential to the continued operation of the Contract and (2) cannot be repaired within one-hundred-eighty (180) days of the occurrence, the State may terminate this Contract. A decision by the State to terminate the Contract under this provision shall be communicated in writing to Concessionaire as soon as practicable. If the Contract is so terminated, State shall be entitled to the proceeds payable under any applicable insurance policies pertaining to the loss as its interest may appear. Receipt of such proceeds by State shall be in addition to the right of State to pursue whatever other remedies it may have to recover any losses due to the occurrence. If the State determines not to terminate the Contract, then, in State's discretion, any buildings, improvements, or fixtures built in replacement of any damaged or destroyed property shall be subject to the terms and provisions of this Contract as if they had existed at the onset. In no event shall the provisions of this Section be deemed or construed to relieve Concessionaire from the requirement to repair or replace any damaged or destroyed property except as specifically excepted by express terms of this Contract.

C. Each policy of liability insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Concessionaire's limit of liability. The policy must include the State of California, Department of Parks and Recreation, its officers, agents, employees and servants as additional insured. This endorsement must be supplied under form acceptable to State. Any subcontractors shall be included under Concessionaire's policy or provide evidence of coverage equal to limits and policies required of Concessionaire

D. Insurance policies shall contain a provision stating coverage will not be cancelled without 30 days prior written notice to State or a 10 day notice for non-payment of premium. In the event Concessionaire fails to keep in effect at all times the specified insurance coverage, State may, in addition to other remedies

it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.

E. Each policy shall be underwritten to the satisfaction of the State. Concessionaire shall submit to State a signed and complete certificate of insurance with all endorsements required by this Section, showing to the satisfaction of State that such insurance coverage has been renewed or extended. Within fifteen (15) days of State's request, Concessionaire shall furnish State with a signed and complete copy of the required policy.

## **9. ALCOHOLIC BEVERAGES**

Notwithstanding anything to the contrary, the sale of liquor, beer, or other alcoholic beverages on the Premises is expressly prohibited. Exception to this restriction may be allowed through the special event permit process, as approved by State.

## **10. CONTRACT NOTICE**

Any notices required to be given or that may be given by either party to the other shall be deemed to have been given when made in writing and deposited in the United States mail, postage prepaid, and addressed as follows:

Concessionaire at: Concessionaire

Address

CityState Zip

Phone

State at:

Department of Parks and Recreation

Central Valley District, Columbia State Historic Park

11255 Jackson Street

Columbia, California 95310

209/536-2917

Copy to:

Department of Parks and Recreation

Concessions, Reservations & Fees Division

P.O. Box 942896

Sacramento, California 94296-0001

916/653-7733

The address to which notices shall or may be mailed as aforesaid by either party shall or may be changed by written notice given by such party to the other, but nothing in this Section shall preclude the giving of any such notice by personal service.

#### **11. RECORDS AND REPORTS**

Concessionaire shall keep separate true and accurate books and records showing all of Concessionaire's business transactions under this Contract in a manner that conforms to industry standards and practices and in a manner acceptable to State. Concessionaire shall keep all records for a period of at least four years.

In accordance with Public Resources Code Section 5080.18(b), copies of all sales and use tax returns submitted by Concessionaire to the California State Board of Equalization, the Employment Development Department, the Franchise Tax Board, or any other governmental agency shall be concurrently submitted to State.

In accordance with Public Resources Code Section 5080.18(c), State shall have the right through its representative and at all reasonable times to conduct such audits as it deems necessary and to examine and copy Concessionaire's books and records including all tax records and returns. Concessionaire hereby agrees to make all such records, books, and tax returns available to State upon State's request therefor. Concessionaire further agrees to allow interviews of any employees who might reasonably have information related to such records.

Concessionaire will submit to State, no later than May 1st of each year during the term of this Contract, a verified profit and loss statement for the previous calendar year. Such statement shall be submitted on Form DPR 86, Concessionaire's Financial Statement, attached hereto as **Exhibit I**, or in a format previously approved by the State, and shall contain an appropriate certification that all gross receipts during the yearly accounting period covered by said statement shall have been duly and properly reported to the State. Within forty-five (45) days of the expiration or termination of this Contract, Concessionaire shall submit to the State a profit and loss statement for the period of operation not previously reported prepared in the manner stated above.

Concessionaire shall obtain and install cash registers or other accounting equipment acceptable to the State, through which Concessionaire shall record all gross receipts from the operation of the concession. This equipment shall be non-resettable and shall supply an accurate recording of all sales on tape and produce a receipt for each transaction. All such equipment shall have a customer display that is visible to the public. Concessionaire shall make all cash register tapes available to the State upon State's request. Concessionaire shall provide a cash register receipt to each customer setting forth the full amount of a sale.

**12. GROSS RECEIPTS**

The term "gross receipts," wherever used in this Contract, is intended to and shall mean all moneys, property, or any other thing of value received by or owed to Concessionaire and any sub-concessionaire or operator, if other than Concessionaire, through or in connection with the operation of the concession, including any concession related business carried on through the internet or catalog sales, or from any other business carried on or in connection with the Premises, or from any other use of the Premises, and/or of any business of any kind that uses the names licensed by this Contract, or that associates with or implies an endorsement by State, all without deduction. The term "gross receipts" shall not include any sales taxes imposed by any governmental entity and collected by Concessionaire.

**13. RATES, CHARGES AND QUALITY OF GOODS AND SERVICES**

Concessionaire shall staff, operate, manage, and provide all goods, services, and facilities offered in a first-class manner and comparable to other high quality concessions providing similar facilities and services. State reserves the right to prohibit or modify the sale or rental of any item, accommodation, or service for public safety and/or to ensure that the public receives, in the State's view, fair pricing, proper service, and appropriate quality. State reserves the right to prohibit the sale or use of non-recyclable containers or plastics.

Any increased rates or charges to park visitors proposed by Concessionaire following contract approval shall be submitted in writing for the State's approval. Rate increases may not be imposed retroactively.

A competent person shall be on the premises at all times while the concession is in operation. If the on-site manager is other than the Concessionaire, State reserves the right to approve such manager.

#### **14. PERFORMANCE EVALUATIONS AND INSPECTION**

As part of its administration of this Contract, State will conduct periodic inspections of concession facilities, equipment, services, and programs and prepare written performance evaluations based upon its observations. A Concessionaire Performance Rating (DPR Form 531) attached hereto as **Exhibit J**, or other similar format(s) as may be adopted by the State will be utilized for evaluation purposes. State further reserves the right of ingress and egress without notice to inspect concession operations for the purposes of evaluating Concessionaire's performance of the terms and conditions of this Contract; to inspect, investigate, and/or survey the Premises; and to do any work thereon of any nature necessary for preservation, maintenance, and operation of the State Park System. Concessionaire agrees to cooperate with State in all respects related to the implementation of State's Concession Performance Evaluation program and with State's activities on the Premises. State shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of State's entry in the Premises as provided herein, except damage resulting from the active negligence or willful misconduct of State or its authorized representatives.

#### **15. HOLD HARMLESS AGREEMENT**

Concessionaire hereby waives all claims and recourse against the State, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this Contract, except claims arising from, and to the extent of, the sole gross negligence or willful misconduct of the State, its officers, agents, or employees. Concessionaire shall protect, indemnify, hold



harmless, and defend State, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, attorney fees, expert costs and fees, or liability costs arising out of the development, construction, operation, or maintenance of the Premises property described herein and compliance with all laws, including but not limited to the Americans With Disabilities Act of 1990 as provided for herein, except for liability arising out of, and to the extent of, the sole gross negligence or willful misconduct of State, its officers, agents, or employees or other wrongful acts for which the State is found liable by a court of competent jurisdiction.

**16. TAXES**

A. By signing this Contract, Concessionaire acknowledges that occupancy interest and rights to do business on state property being offered Concessionaire by this Contract may create a possessory interest as that term is defined in Revenue and Taxation Code Section 107.6, which possessory interest may subject Concessionaire to liability for the payment of property taxes levied on such possessory interest.

B. Concessionaire agrees to pay all lawful taxes, assessments, or charges that at any time may be levied by the State, County, City, or any tax or assessment levying body upon any interest in or created by this Contract, or any possessory right that Concessionaire may have in or to the premises covered hereby, or the improvements thereon by reason of Concessionaire's use or occupancy thereof or otherwise, as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by Concessionaire in or about the Premises.

**17. MODIFICATIONS, ADDITIONS, TITLE TO IMPROVEMENTS**

In the event that Concessionaire desires to make modifications, improvements, or additions to the Premises or any part of the Premises, including changes to structural design, required accessibility barrier removal work, landscape design, or interior or exterior fixtures, design, and/or furnishings, (collectively Alteration(s)), the approval in

writing of State shall be obtained prior to the commencement of any Alterations. State shall dictate the plan approval process.

The Premises as shown on **Exhibit A** include a nationally significant historic resource which is a contributor to the National Historic Landmark property, a National Register listed property, and a historic property identified in the California Register. No alteration, modification, demolition, or construction may be commenced without prior written approval from State in accordance with Public Resources Code Section 5024.5.

Once any Alteration has been approved by State and the work has begun, Concessionaire shall, with reasonable diligence, prosecute to completion all approved Alterations. All work shall be performed in a good and workmanlike manner, shall substantially comply with plans and specifications as submitted and approved by State as required herein, and shall comply with all applicable governmental permits, laws, ordinances, and regulations. It shall be the responsibility of Concessionaire, at its own cost and expense, to obtain all licenses, permits, and other approvals necessary for the construction of approved Alterations.

Title to all Alterations and improvements existing or hereafter erected on the Premises, regardless of who constructs such improvements, shall immediately become State's property and, at the end of the Term, shall remain on the Premises without compensation to Concessionaire. Concessionaire agrees never to assail, contest, or resist title to the Alterations and improvements. The foregoing notwithstanding, State may elect, by notice to Concessionaire, that Concessionaire must remove any Alterations that are peculiar to Concessionaire's use of the Premises and are not normally required or used by State and/or future occupants of the Premises. In this event, Concessionaire shall bear the cost of restoring the Premises to its condition prior to the installment of the Alterations.

#### **18. PERSONAL PROPERTY**

Except to the extent covered by Section 17, Modifications, Additions, Title to Improvements, title to all personal property provided by Concessionaire shall remain in Concessionaire. Concessionaire shall not attach any personal property to any building without first obtaining State's written approval. Unless approved in writing by State, all

property attached to real property will be considered a real property improvement and shall become property of State at the time this Contract is terminated.

#### **19. HOUSEKEEPING, MAINTENANCE, REPAIR AND REMOVAL**

During the term of this Contract at Concessionaire's own cost and expense, Concessionaire shall maintain and operate the Premises and areas in, on, or adjacent to a distance of not less than fifteen (15) feet, including personal property and equipment, in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind. Concessionaire shall remedy without delay any defective, dangerous, or unsanitary conditions.

A. Housekeeping: Housekeeping activities are defined as all those activities concerned with keeping facilities clean, neat, and orderly, and includes, but is not limited to, mowing, raking, sweeping, vacuuming, mopping, stripping, waxing, dusting, wiping, washing, hosing, and other general care or cleaning of interior and exterior floors, walls, ceilings, doors, windows, facility fixtures, and all adjacent grounds and walks. Concession housekeeping shall conform to California State Park standards.

B. Maintenance and Repairs: Concessionaire shall maintain all concession facilities and personal property and equipment on the Premises in good condition and repair at Concessionaire's sole cost and expense at all times during the term of this Contract. Such maintenance shall conform to State Park standards and in accordance with **Exhibit K**, Maintenance Schedule and **Exhibit L**, Secretary of the Interior's Standards for the Treatment of Historic Properties attached to and made a part of this Contract. For the purposes of this Contract, the term "maintenance" is defined as all repair and preservation work necessary to maintain concession facilities and personal property and equipment in a good state of repair, as well as to preserve them for their intended purpose for an optimum useful life.

Pest inspections shall be performed regularly. Concessionaire will remedy all pest infestations in a timely manner. Concessionaire shall provide to State

copies of all pest inspection reports or other professional assessments of the condition of the facilities.

Subject to the availability of funds, the State shall be responsible for the stability of the building and maintaining the building roof and exterior walls.

Any maintenance, repair or replacement which in any way affects the historical integrity or interpretation of the building, must be approved in advance by the State in writing.

Should Concessionaire fail, neglect, or refuse to undertake and complete any required maintenance, State shall have the right to perform such maintenance or repairs for Concessionaire. In this event, Concessionaire shall promptly reimburse State for the cost thereof provided that State shall first give Concessionaire ten (10) days written notice of its intention to perform such maintenance or repairs. State shall not be obligated to make any repairs to or maintain any improvements on the Premises. Concessionaire hereby expressly waives the right to make repairs at the expense of State and the benefit of the provisions of Sections 1941 and 1942 of the Civil Code of the State of California relating thereto if any there be. State has made no representations respecting the condition of the Premises, except as specifically set forth in this Contract.

C. Removal and Restoration. At the expiration or sooner termination of this Contract, Concessionaire at its own expense shall remove all personal property brought onto the Premises by Concessionaire. Concessionaire, at Concessionaire's expense, shall restore and repair the Premises, and any of Concessionaire's improvements or fixtures remaining thereon, to a good, clean, safe, and fit condition, reasonable wear and tear excepted, and shall completely remedy all injuries to the Premises.

## **20. UTILITIES AND SERVICES**

Concessionaire shall be responsible for all costs associated with the installation and provision of all utilities necessary to and used in connection with the Premises, including but not limited to sewage disposal. When installing facilities, no trees shall be trimmed or cut without permission of State. Removal and disposal of all rubbish,

refuse, and garbage resulting from concession's operations shall be the Concessionaire's responsibility and shall be disposed of outside the park unit and in accordance with applicable laws and local ordinances. All trash containers and/or trash bins shall be adequately screened to the satisfaction of State.

## **21. RESOURCE CONSERVATION**

A. Environmental Conservation Program: Concessionaire shall set a positive example in waste management and environmental awareness that shall lead to preservation of the resources of the State. Accordingly, Concessionaire shall prepare and execute a program, subject to the prior written approval of the State, designed to reduce environmental impacts that result from concession operations. This program shall address, but not be limited to: solid waste management, including reduction, reuse and recycling; water and energy conservation, pest management, grease removal and disposal, hazardous materials handling and storage, and air quality. Specifically, the program must include the following:

1) **Recycling and Beverage Container Programs:** The Concessionaire shall implement a source reduction and recycling program designed to minimize concession and patron use of disposable products, per Public Contract Codes Sections 12161 and 12200 et seq. Reusable and recyclable products are preferred over "throwaways." Where disposable products are needed, products that have the least impact on the environment will be selected. No Styrofoam containers or other non-biodegradable containers are to be used or sold by Concessionaire. The use of "post-consumer" recycled products is encouraged wherever possible.

The Concessionaire shall participate in the California beverage container redemption/recycling program. Products to be recycled include, but are not limited to, paper, newsprint, cardboard, bimetal, plastics, aluminum and glass. At the start of each Contract Year, Concessionaire and State shall review items sold, and containers or utensils used or

dispensed by Concessionaire, and, whenever possible, eliminate the use of non-returnable or non-recyclable containers or plastics.

2) **Water and Energy Conservation:** The Concessionaire shall implement water and energy conservation measures. As new technologies are developed, Concessionaire shall explore the possibility of integrating them into existing operations where there is potential for increased efficiency, reduced water or energy consumption, and/or reduced impacts on the environment.

3) **Erosion Control/Water Quality/Environmental Sensitivity:** The Concessionaire shall comply with all requirements set forth by various oversight agencies that have jurisdiction and oversight authority relating to the Premises and surrounding properties, including, but not limited to, erosion control, water quality and environmental sensitivity standards.

B. **Resource Management and Preservation:** Concessionaire shall comply with State's resource management and preservation mandates in the conduct of all activities that impact cultural, natural, or scenic resources. These mandates include the Public Resources Code Sections 5024 and 5097 et seq. the Department's Resource Management Directives and the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties.

C. **Air and Water Pollution Violation:** Under State laws, Concessionaire shall not be (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

## **22. HAZARDOUS SUBSTANCES**

A. **Use of Premises:** On the Premises, Concessionaire shall not:

1) Keep, store, or sell any goods, merchandise, or materials that are in any way explosive or hazardous;

- 2) Carry-on any offensive or dangerous trade, business, or occupation;
- 3) Use or operate any machinery or apparatus that shall injure the premises or adjacent buildings in any way; or
- 4) Do anything other than is provided for in this Contract.
- 5) Nothing in this Section shall preclude Concessionaire from bringing, keeping, or using on or about said premises such materials, supplies, equipment, and machinery as is appropriate or customary in carrying-on Concessionaire's business.
- 6) Gasoline, oil, and other materials considered under law or otherwise to be hazardous to public health and safety shall be stored, handled, and dispensed as required by present or future regulations and laws.

B. Storage of Hazardous Materials: Concessionaire shall comply with all applicable laws and best practices pertaining to the use, storage, transportation, and disposal of hazardous substances. Concessionaire shall protect, indemnify, defend, and hold harmless the State or any of its affiliates, successors, principals, employees, or agents against any liability, cost, or expense, including attorney's fees and court costs, arising from illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, by Concessionaire. Where Concessionaire is found to be in breach of this provision due to the issuance of a government order directing Concessionaire to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition directly caused by Concessionaire or any person acting under Concessionaire's direct control or authority, Concessionaire shall be responsible for all cost and expense of complying with such order, including any and all expenses imposed on or incurred by the State in connection with or in response to such government order. Notwithstanding the foregoing, in the event a government order is issued naming Concessionaire, or Concessionaire incurs any liability during or after the term of the Contract in connection with contamination that preexisted the Concessionaire's obligations

and occupancy under this Contract or prior contracts, or that were not directly caused by Concessionaire, the State shall be solely responsible as between Concessionaire and the State for all expenses and efforts in connection therewith, and State shall reimburse Concessionaire for all reasonable expenses actually incurred by Concessionaire therewith.

C. Certification: Upon termination of this Contract, when requested by State, Concessionaire shall provide certification prepared by a Certified Industrial Hygienist that there is no hazardous waste contamination and/or damage to the Premises.

D. Pest Control Activities: All pest control activities, chemical and non-chemical, shall be approved by the State prior to action by the Concessionaire. Concessionaire, or the pest control business acting on behalf of Concessionaire, shall submit a DPR 191, Pest Control Recommendation (or equivalent) to the State for approval. The State has fourteen (14) days to approve or deny the request. Such approval shall be solely for compliance with State's policies and in no way shall relieve Concessionaire or its contractors, employees, agents or representatives from compliance with all laws and regulations concerning such activities and from carrying out the work in a workmanlike manner.

Concessionaire, or the pest control business acting on behalf of Concessionaire, shall submit a report of completed work for each pest management action to the State no later than seven (7) days after performance of the work. The report may be submitted on a DPR 191, Pest Control Recommendation (or equivalent information).

## **23. EQUIPMENT**

Concessionaire, at Concessionaire's own expense, shall completely equip the concession improvements described herein and shall keep the same equipped in a safe and first-class manner throughout the term of this Contract. **In Addition, For Pop Konrad's Garage concession:** Purchase and install a historic looking wood or pellet burning stove at Concessionaire's expense, to be approved by State Parks staff. Stove will become property of State Parks. Concessionaire may abate, at State's discretion,



in Contract Year One (1) up to Five Thousand Dollars (\$5,000) of pre-approved and verified expense towards the purchase and installation of the stove.

#### **24. ARTIFACTS**

All artifacts and furnishings provided by the State for Concessionaire's use shall be provided in accordance with the loan agreement, **Exhibit M**, Museum Collections Loan Agreement (DPR 928), attached hereto and made a part of the Contract, and shall be executed prior to occupancy by Concessionaire.

State shall provide, for use by the Concessionaire, the furnishings located in the building and/or listed on **Exhibit M**. Said furnishings shall be returned to the State at the expiration of this agreement in the same condition as received, reasonable use, wear and tear, and damage by the elements excepted.

The State shall not be obligated to replace equipment, fixtures or furnishing items which may become unserviceable or beyond reasonable repair due to use, wear and tear, and/or damage by the elements.

Should Concessionaire fail, neglect or refuse to maintain the items described in the loan agreement, **Exhibit M**, the State shall have the right to perform such maintenance or repairs for the Concessionaire's account, and the Concessionaire agrees to promptly reimburse the State for the cost thereof, provided however, that the State shall first give Concessionaire ten (10) days written notice of its intention to perform such maintenance or repairs for the concessionaire's account for the purpose of enabling Concessionaire to proceed with such maintenance or repairs at the Concessionaire's own expense. Should Concessionaire refuse to pay the cost within thirty (30) days after State bills Concessionaire for State's cost, then State may make a demand on the Concessionaire's performance bond, required in Section 7 above, to satisfy such expenditures.

#### **25. SIGNS AND ADVERTISING**

No signs, logos, names, placards, or advertising matter shall be inscribed, painted, or affixed upon Premises, circulated, or published, including electronically or on the internet, without prior written consent of the State and only consistent with the

purposes of the Contract. To the extent possible, signs and advertising shall conform to the publication titled A Guideline for Signs, Old Town Sacramento District.

## **26. PHOTOGRAPHY**

State may grant permits to persons or corporations engaged in the production of still and motion pictures and related activities for the use of the Premises for such purposes when such permission shall not interfere with the primary business of Concessionaire. Such permits shall not be deemed to be a competitive activity with regard to Concessionaire's rights to possession and operation under this Contract.

## **27. INTELLECTUAL PROPERTY RIGHTS**

A. Any names, logos, and/or trademarks developed during and/or pursuant to this Contract that will in any way associate with, identify, or implicate an affiliation with California State Parks shall be approved by State, but, whether or not so approved, shall be deemed to have been developed pursuant to this Contract and licensed hereunder to Concessionaire for the term of this Contract only; shall belong to State upon creation; and shall continue in State's exclusive ownership upon termination of this Contract, and all goodwill and other rights in said marks shall inure to the benefit of the State as the mark owner. Further, any original works of authorship in which copyright resides, and any other proprietary rights, including without limitation trade secrets and know-how, which are developed during and/or pursuant to this Contract, shall be deemed to be works made for hire in consideration of Concessionaire's rights and benefits hereunder, or alternatively Concessionaire agrees to assign such copyrights to the State, and shall be owned by the State; shall belong to State upon creation; and shall continue in State's exclusive ownership upon termination of this Contract. These works shall include, but are not limited to, all drawings, designs, reports, specifications, notes, and other work developed in the performance of this Contract. Further, Concessionaire shall deliver to the State upon request the electronic media that contain the design or other such files containing such information. Drawings and Project Manuals shall be provided in electronic format

using industry standard software and in compliance with State's Guidelines for Construction and Completion of Improvements. Concessionaire intends and agrees to assign to State all right, title, and interest in and to such materials, as well as all related copyrights and other proprietary rights therein, unless otherwise agreed to in writing.

B. Concessionaire warrants that it has the full right, power, and authority over and is the sole exclusive owner of all tangible and intangible property deliverable to State in connection with this Contract and that title to such materials conveyed to State shall be delivered free and clear of all claims, liens, charges, judgments, settlement, encumbrances, or security interests.

C. Concessionaire agrees not to incorporate into or make any deliverables dependent upon any original works of authorship or Intellectual Property Rights of third parties without first (i) obtaining State's prior written permission, and (ii) granting to or obtaining for State a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license to use, reproduce, sell, modify, publicly and privately perform, publicly and privately display and distribute any such prior works for any purpose whatsoever.

D. Concessionaire further warrants that all deliverables do not infringe or violate any patent, copyright, trademark, trade secret, or any other intellectual property rights of any person, entity, or organization. Concessionaire agrees to execute any documents reasonably requested by State in connection with securing State's registration of patent and/or copyrights, or any other statutory protection in such work product, including an assignment of copyright, in all deliverables. Concessionaire further agrees to incorporate these provisions into all of its contracts with architects, engineers, and other consultants or contractors.

E. The State hereby grants Concessionaire, and Concessionaire hereby accepts non-exclusive, non-assignable permission to use certain trademarks hereinafter referred to "Mark" (such as the California State Parks Logo), created and owned by the State, in accordance with Exhibit H License/Permission for use

of Trademarks, attached hereto and made part of this Contract and the following terms and conditions:

- 1) Any use of Mark is subject to advance review and approval by State's Representative or designee.
- 2) One copy of any published work or product using the Mark must be provided to State.
- 3) Concessionaire shall not modify or alter the Mark in any way without prior written approval from State.
- 4) A record of each authorized Concessionaire use of the Mark shall be maintained by the District Superintendent or designee.
- 5) State reserves Concessionaire's right for unauthorized use of the Mark, whereupon all rights granted herein shall revert immediately to State.

F. Concessionaire, at its sole expense, shall hold harmless, protect, defend, and indemnify State against any infringement action and/or dispute brought by a third party in connection with any deliverable hereunder or use of Mark by Concessionaire. Concessionaire shall pay all costs, expenses, losses and damages, judgments and claims including reasonable attorney's fees, expert witness fees and other costs.

## **28. PARTICIPATION IN STATE PARK MARKETING PROGRAMS**

Concessionaire acknowledges that the State has an established advertising and marketing program designed to promote additional revenue for the State and to deliver a consistent and positive image to the public, and Concessionaire agrees to participate in this program in the manner described below without compensation from the State for such cooperation. Any programs established following execution of the contract will be implemented upon mutual consent by Concessionaire and State.

A. Concessionaire agrees to honor all statewide graphic standards, licensing, and merchandising agreements entered into with corporate sponsors of the Department of Parks and Recreation.

B. Concessionaire agrees to place on the Premises any advertising that the State approves under this program. Any advertising approved by the State under this program will be placed at State's expense.

Concessionaire agrees to rent or sell, along with all other items of merchandise that are part of the Concessionaire's normal and customary inventory, any item of merchandise that the State approves under this program, provided that Concessionaire is authorized to sell or rent it under the terms of the Contract, and the Concessionaire receives reasonable compensation for its sale.

## 29. **DEFAULT BY CONCESSIONAIRE**

A. **Defaults:** The occurrence of any one of the following shall constitute a default and breach of this Contract by Concessionaire:

- 1) **Failure to Pay Rent:** Any failure of Concessionaire to timely pay any rent due or any other monetary sums required to be paid hereunder where such failure continues for a period of ten (10) consecutive days after such sums are due.
- 2) **Absence from Premises:** Any complete absence by Concessionaire or its agents and employees from the Premises for thirty (30) consecutive days or longer. The Premises shall be deemed abandoned after State has followed the procedures set forth in Civil Code Section 1951.3.
- 3) **Nuisance:** Should Concessionaire create or allow to be created a nuisance on the Premises, State may declare an immediate event of default and enter upon and take possession and/or demand an assignment of the right to operate the Premises without notice to Concessionaire. For the purpose of this paragraph, "nuisance" consists of an egregious activity that threatens the health, welfare, and safety of the public. Concessionaire shall immediately vacate the Premises and remove all personal property within thirty (30) days after State's declaration of default.
- 4) **Failure to Observe Other Provisions:** Any failure by Concessionaire to observe or perform another provision of this Contract where such failure

continues for twenty (20) consecutive days after written notice thereof by State to Concessionaire; this notice shall be deemed to be the notice required under California Code of Civil Procedure Section 1161. However, if the nature of Concessionaire's default is such that it cannot reasonably be cured within the twenty (20) day period, Concessionaire shall not be deemed to be in default if it is determined at the sole discretion of State that Concessionaire has commenced such cure within the twenty (20) day period and thereafter continues to diligently prosecute such cure to completion to the satisfaction of State.

5) Involuntary Assignments, Bankruptcy: State and Concessionaire agree that neither this Contract nor any interest of Concessionaire hereunder in the Premises shall be subject to involuntary assignment or transfer by operation of law in any manner whatsoever, including, without limitation, the following: (a) transfer by testacy or intestacy; (b) assignments or arrangements for the benefit of creditors; (c) levy of a writ of attachment or execution on this Contract; (d) the appointment of a receiver with the authority to take possession of the Premises in any proceeding or action in which Concessionaire is a party; or (e) the filing by or against Concessionaire of a petition to have Concessionaire adjudged a bankrupt, or of a petition for reorganization or arrangement under any law relating to bankruptcy. Any such involuntary assignment or transfer by operation of law shall constitute a default by Concessionaire and State shall have the right to elect to take immediate possession of the Premises, to terminate this Contract and/or invoke other appropriate remedies as set forth below, in which case this Contract shall not be treated as an asset of Concessionaire.

B. Notices of Default: Notices of default shall specify the alleged default and the applicable contract provision and shall demand that Concessionaire perform the provisions of this Contract within the applicable time period or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Contract unless State specifically so states in the notice.

**30. STATE'S REMEDIES**

In the event of default by Concessionaire, State shall have the following remedies. These remedies are not exclusive; they are cumulative and are in addition to any other right or remedy of State at law or in equity.

A. Collection of Rent: In any case where State has a cause of action for damages, State shall have the privilege of splitting the cause to permit the institution of a separate suit for rent due hereunder, and neither institution of any suit, nor the subsequent entry of judgment shall bar State from bringing another suit for rent; it being the purpose of this provision to provide that the forbearance on the part of State in any suit or entry of judgment for any part of the rent reserved under this Contract, to sue for, or to include in, any suit and judgment the rent then due, shall not serve as defense against, nor prejudice a subsequent action for, rent or other obligations due under the Contract. The claims for rent may be regarded by State, if it so elects, as separate claims capable of being assigned separately.

B. Maintain Contract in Effect: The State has the remedy described in California Civil Code 1951.4 (lessor may continue lease in effect after lessee's breach or abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations). The following do not constitute a termination of the Concessionaire's right to possession: (1) Acts of maintenance or preservation or efforts to relet the Premises; (2) The appointment of a receiver upon initiative of the State to protect State's interests under the Contract; (3) Withholding consent to a subletting or assignment so long as such consent is not unreasonably withheld.

C. Continued Performance: At State's option, Concessionaire shall continue with its responsibilities under this Contract during any dispute.

D. Termination of Concessionaire's Right to Possession: Upon an event of default, State may terminate Concessionaire's right to possession of the Premises at any time by written notice to Concessionaire. In the absence of such written notice from State, no act by State, including, but not limited to, acts

of maintenance, efforts to relet and/or assign rights to possession of the Premises, or the appointment of a receiver on State's initiative to protect State's interest under this Contract shall constitute an acceptance of Concessionaire's surrender of the Premises, or constitute a termination of this Contract or of Concessionaire's right to possession of the Premises. Upon such termination, State has the right to recover from Concessionaire:

- 1) the worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this Contract;
- 2) the worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of termination of this Contract until the time of the award exceeds the amount of loss of rent that Concessionaire proves could have reasonably been avoided;
- 3) the worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of the loss of rent that Concessionaire proves could have been reasonably avoided; and
- 4) any other amount necessary to compensate State for all the detriment proximately caused by Concessionaire's failure to perform its obligations under this Contract, which, without limiting the generality of the foregoing, includes any cost and expenses incurred by the State in recovering possession of the Premises, in maintaining or preserving the Premises after such default, in preparing the Premises for a new concessionaire, in making any repairs or alterations to the Premises necessary for a new concessionaire, in making any repairs or alterations to the Premises, and costs of clearing State's title of any interest of Concessionaire, commissions, attorneys' fees, architects' fees, and any other costs necessary or appropriate to make the Premises operational by a new concessionaire.

"The worth, at the time of the award," as used herein above shall be computed by allowing interest at the lesser of a rate of ten percent (10%) per annum or the maximum legal rate.



E. Assignment at State's Direction: In the event of a default by Concessionaire, when cure is not received and acknowledged by State after having provided notice of the breach as provided herein above, Concessionaire shall, in addition to the damages provided for herein, be obligated to assign all rights to occupy, possess, and operate on and in the Premises to State's designee within thirty (30) days of receipt of written demand by State. Concessionaire shall further remove itself and its personal property from the Premises within the same time frame. Concessionaire agrees to execute all documents necessary to effectuate and implement this provision. Upon such assignment, all rights of Concessionaire under the Contract shall transfer to the assignee.

Any designated assignee, as provided for herein, shall take and operate the concession under the same terms and conditions as those set forth herein, except for requirements that have already been performed and are no longer applicable. However, Concessionaire shall not be relieved of obligations incurred. An assignment of the Contract pursuant to the terms hereof shall not cause the Contract to terminate and shall not work a merger.

F. Receiver: If Concessionaire is in default of this Contract, State shall have the right to have a receiver appointed to collect rent and conduct Concessionaire's business or to avail itself of any other pre-judgment remedy. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by State to terminate this Contract.

G. Right to Cure Concessionaire's Default: At any time after Concessionaire commits a default, State can cure the default at Concessionaire's cost. If State, at any time by reason of Concessionaire's default, pays any sum or does any act that requires the payment of any sum, the sum paid by State shall be due immediately from Concessionaire to State, and if paid at a later date shall bear interest at the rate of ten percent (10%) per annum from the date the sum is paid by State until State is reimbursed by Concessionaire. Any such sum shall be due as additional rent.

H. Personal Property of Concessionaire: In the event any personal property or trade fixtures of Concessionaire remain at the Premises after State has regained possession or after an assignment is accomplished, that property or those fixtures shall be dealt with in accordance with the provisions for Surrender of the Premises provided below.

- 1) State's Obligations After Default: State shall be under no obligation to observe or perform any covenant of this Contract on its part to be observed or performed that accrues after the date of any default by Concessionaire. Such nonperformance by State shall not constitute a termination of Concessionaire's right to possession nor a constructive eviction.
- 2) No Right of Redemption: Concessionaire hereby waives its rights under California Code of Civil Procedure Sections 1174 and 1179 or any present or future law that allows Concessionaire any right of redemption or relief from forfeiture in the event State takes possession of the Premises by reason of any default by Concessionaire.
- 3) Other Relief: All monetary obligations of the Concessionaire of any kind shall be considered rent. State shall have such rights and remedies for failure to pay such monetary obligations as State would have if Concessionaire failed to pay rent due. The remedies provided in this Contract are in addition to any other remedies available to State at law, in equity, by statute, or otherwise.
- 4) No Buy-out: In accordance with Public Resources Code Section 5080.18 (h), where the Contract has been terminated due to a breach on the part of the Concessionaire under any terms of this Contract the State shall not be obligated to purchase any improvements made by Concessionaire or to pay the Concessionaire for said improvements before or after taking possession of the Premises.

**31. DEFAULT BY STATE**

State shall not be in default of the performance of any obligation required of it under this Contract unless and until it has failed to perform such obligation for more than thirty (30) days after written notice by Concessionaire to State specifying the alleged default and the applicable contract provision giving rise to the obligation. However, if the nature of State's obligation is such that more than thirty (30) days is required for its performance, then State shall not be deemed in default if it shall commence performance within such 30-day period and thereafter diligently prosecute the same to completion.

**32. SURRENDER OF THE PREMISES; HOLDING OVER**

A. Surrender: On expiration or within thirty (30) days after earlier termination of the Contract, Concessionaire shall surrender the Premises to State with all fixtures, improvements, and Alterations in good condition, except for fixtures, improvements, and Alterations that Concessionaire is obligated to remove. Concessionaire shall remove all of its personal property and shall perform all restoration required by the terms of this Contract within the above stated time unless otherwise agreed to in writing.

1) Personal Property: All of Concessionaire's personal property remaining on the Premises beyond such time specified in this Section shall be dealt with in accordance with California Code of Civil Procedure Section 1174 and California Civil Code Sections 1980, or such other laws as may be enacted regarding the disposition of Concessionaires' property remaining at the Premises. Concessionaire waives all claims against State for any damage to Concessionaire resulting from State's retention or disposition of Concessionaire's personal property. Concessionaire shall be liable to State for State's costs in storing, removing, and disposing of Concessionaire's personal property or trade fixtures.

2) Failure to Surrender. If Concessionaire fails to surrender the Premises to State on the expiration, assignment, or within thirty (30) days

after earlier termination of the term as required by this Section, Concessionaire shall hold State harmless for all damages resulting from Concessionaire's failure to surrender the Premises.

B. Holding Over: After the expiration or earlier termination of the term and if Concessionaire remains in possession of the Premises with State's express consent, such possession by Concessionaire shall be deemed to be a temporary tenancy terminable on thirty (30) days written notice given at any time by either party. During such temporary tenancy, the Minimum Rent shall be increased by Consumer Price Index adjustments required by this Contract in accordance with Section 4, Rent, unless otherwise agreed to in writing by State. Concessionaire shall pay such rent and all other sums required to be paid hereunder monthly on or before the fifteenth day of each month. All other provisions of this Contract except those pertaining to the term shall apply to the month-to-month tenancy.

**33. NO RECORDATION; QUITCLAIM**

A. No Recordation: This Contract shall not be recorded.

B. Quitclaim: Concessionaire shall execute and deliver to State on the expiration or termination of this Contract immediately on State's request, a quitclaim deed to the Premises and the rights arising hereunder, in recordable form or such other document as may be necessary, to remove any claim of interest of Concessionaire in and to all property belonging to the State. Should Concessionaire fail or refuse to deliver to State a quitclaim deed or other documents as aforesaid, a written notice by State reciting the failure of the Concessionaire to execute and deliver said quitclaim deed as herein provided, shall after ten (10) days from the date of recordation of said notice be conclusive evidence against the Concessionaire and all persons claiming under Concessionaire of the termination of this Contract.

**34. ATTORNEY FEES**

Concessionaire shall reimburse the State on demand for all reasonable attorney fees (including attorney fees incurred in any bankruptcy or administrative proceeding or

in any appeal) and expenses incurred by State as a result of a breach or default under this Contract. If Concessionaire becomes the prevailing party in any legal action brought by State, Concessionaire shall be entitled to recover reasonable attorney fees and expenses incurred by Concessionaire and need not reimburse the State for any attorney fees and expenses incurred by the State.

**35. EXPATRIATE CORPORATIONS**

Concessionaire hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1 and is eligible to contract with the State.

**36. COMPLIANCE WITH LAWS, RULES, REGULATIONS AND POLICIES**

Concessionaire shall comply with all applicable laws, rules, regulations, and orders existing during the term of this Contract, including obtaining and maintaining all necessary permits and licenses. Concessionaire acknowledges and warrants that it is or will make itself through its responsible concession managers, knowledgeable of all pertinent laws, rules, ordinances, regulations, or other requirements having the force of law affecting the operation of the concession facilities, including but not limited to laws affecting health and safety, hazardous materials, pest control activities, historic preservation, environmental impacts, accessibility, and federal and State building codes and regulations, including the California Historical Building Code and the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties.

**37. NONDISCRIMINATION**

During the performance of this Contract, Concessionaire and its employees shall not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, or any member of the public because of sex, sexual orientation, race, color, religious creed, marital status, need for family and medical care leave, ancestry, national origin, medical condition (cancer/genetic characteristics), age (40 and above), disability (mental and physical) including HIV and AIDS, need for pregnancy disability leave, or need for reasonable accommodation. Concessionaire

shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

For contracts over \$100,000 executed or amended after January 1, 2007, the Concessionaire certifies compliance with Public Contract Code Section 10295.3 concerning domestic partners.

Further, as part of compliance with the foregoing, Concessionaire and Concessionaire's employees shall not discriminate by refusing to furnish any person any accommodation, facility, service, or privilege offered to or enjoyed by the general public. Nor shall Concessionaire or Concessionaire's employees publicize the accommodation, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any such person.

Concessionaire shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a)-(f), are incorporated into this Contract by reference and made a part hereof as if set forth in full (California Code of Regulations, title 2, Section 7285.0 et seq.). Concessionaire shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Concessionaire shall include the non-discrimination and compliance provisions of this clause in all contracts to perform work under and/or in connection with this Contract.

In the event of violation of this Section, the State will have the right to terminate this Contract, and any loss of revenue sustained by the State by reason thereof shall be borne and paid for by the Concessionaire.

### **38. DISABILITIES ACCESS LAWS**

Without limiting Concessionaire's responsibility under this Contract for compliance with all laws, with regard to all operations and activities that are the responsibility of Concessionaire under this Contract, Concessionaire shall be solely responsible for complying with the requirements of the Americans With Disabilities Act

of 1990 (ADA) [Public Law 101-336, commencing at Section 12101 of Title 42, United States Code (and including Titles I, II, and III of that law)], the Rehabilitation Act of 1973, and all related regulations, guidelines, and amendments to both laws. As a National Historic Landmark property, application of the California Historical Building Code is permissible, and in fact is highly recommended for all necessary ADA compliance, in order to meet Public Resources Code Section 5024.5, and federal Section 106 review requirements, where applicable.

Concessionaire shall be solely responsible to complete necessary modifications to Premises to meet ADA requirements within the first Contract Year, including, but not limited to ADA requirements stated in **Exhibit K**.

With regard to facilities and historic resources for which Concessionaire is responsible for operation, maintenance, construction, restoration, or rehabilitation under this Contract, Concessionaire also shall be responsible for compliance with Government Code Section 4450, et seq., Access to Public Buildings by Physically Handicapped Persons, and Government Code Section 7250, et seq., Facilities for Handicapped Persons, and any other applicable laws. Written approval from State is required prior to implementation of any plans to comply with accessibility requirements.

#### **39. DRUG-FREE WORKPLACE**

Concessionaire agrees to comply with Government Code Section 8355 in matters relating to the provision of a drug-free workplace. This compliance is evidenced by the executed Standard Form 21 entitled Drug-Free Workplace Certification, **Exhibit N**, attached hereto and made a part of the Contract.

#### **40. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

The Concessionaire, by signing this Contract, does hereby swear, under penalty of perjury, that no more than one final, un-appealable finding of contempt of court by a Federal Court has been issued against Concessionaire within the two-year period immediately preceding the date of this Contract because of Concessionaire's failure to comply with a Federal Court order that Concessionaire shall comply with an order of the National Labor Relations Board.

**41. CHILD SUPPORT COMPLIANCE ACT**

In the event the annual gross income generated as a result of this Contract shall exceed One Hundred Thousand Dollars (\$100,000.00), Concessionaire acknowledges that:

- A. The Concessionaire recognizes the importance of child and family support relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as obligations and shall comply with all applicable state and federal laws provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The Concessionaire to the best of its knowledge is complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**42. CONFLICT OF INTEREST**

Concessionaire warrants and covenants that no official, employee in the state civil service, other appointed state official, or any person associated with same by blood, adoption, marriage, cohabitation, and/or business relationship: (a) has been employed or retained to solicit or aid in the procuring of this Contract; (b) will be employed in the performance of this Contract without the immediate divulgence of such fact to State. In the event State determines that the employment of any such official, employee, associated person, or business entity is not compatible, Concessionaire shall terminate such employment immediately. For breaches or violation of this Section, State shall have the right both to annul this Contract without liability and, in its discretion, recover from the Concessionaire the full amount of any compensation paid to such official, employee, or business entity.



**43. WAIVER OF CLAIMS**

The Concessionaire hereby waives any claim against the State of California, its officers, agents, or employees for damage or loss caused by any suit or proceeding directly or indirectly attacking the validity of this Contract or any part thereof, or by any judgment or award in any suit or proceeding declaring this Contract null, void, or voidable, or delaying the same or any part thereof from being carried out.

**44. WAIVER OF CONTRACT TERMS**

Unless otherwise provided by this Contract, no waiver by either party at any time of any of the terms, conditions, or covenants of this Contract shall be deemed as a waiver at any time thereafter of the same or of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of the State to re-enter the Premises or to exercise any right, power, privilege, or option arising from any breach, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option or be construed as a waiver of such breach or a relinquishment of any right or acquiescence therein. No notice to the Concessionaire shall be required to restore or revive time as of the essence after the waiver by the State of any breach. No option, right, power, remedy, or privilege of the State shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options, and remedies given to the State by this Contract shall be deemed cumulative.

**45. INTERPRETATION OF CONTRACT**

This Contract is made under and is subject to the laws of the State of California in all respects as to interpretation, construction, operation, effect, and performance.

**46. DURATION OF PUBLIC FACILITIES**

By entering into this Contract, State makes no stipulation as to the type, size, location, or duration of public facilities to be maintained at this unit, or the continuation

of State ownership thereof, nor does the State guarantee the accuracy of any financial or other factual representation that may be made regarding this concession.

**47. TIME OF ESSENCE**

Time shall be of the essence in the performance of this Contract.

**48. EMINENT DOMAIN**

If, during the term of this Contract, any property described herein or hereinafter added hereto is taken in eminent domain, the entire award shall be paid to State.

**49. TEMPORARY TENANCY**

This tenancy is of a temporary nature and the parties to this Contract agree that no Relocation Payment or Relocation Advisory Assistance will be sought or provided in any form as a consequence of this tenancy.

**50. SECTION TITLES**

The Section titles in this Contract are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of this Contract, or in any way affect this Contract.

**51. CONTRACT IN COUNTERPARTS**

This Contract may be executed in counterparts, each of which shall be deemed an original.

**52. INDEPENDENT CONTRACTOR**

In the performance of this Contract, Concessionaire and the agents and employees of Concessionaire shall act in an independent capacity and not as officers or employees or agents of the State.

**53. ASSIGNMENTS AND SUBCONCESSIONS**

No transfer, assignment, or corporate sale or merger by the Concessionaire that affects this Contract or any part thereof or interest therein directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer, assignment, or corporate merger or sale is first consented to in writing by State. Before State considers such assignment, evidence must be given to State that the proposed assignee qualifies as a "best responsible bidder" under the terms of Section 5080.05 of the Public Resources Code or "best responsible person or entity submitting a proposal" under the terms of Section 5080.23 of the Public Resources Code and the Bid Prospectus or Request for Proposals under which this Contract was awarded and executed. To be effective, any such assignment must comply with applicable law including, without limitation on generality, Public Resources Code Sections 5080.20 and 5080.23.

Portions of this concession may be operated by others under a subcontract agreement with prior written consent of State under the following conditions:

- A. The subcontractor must be qualified.
- B. The subcontractor's interest shall be subordinate and in all ways subject to the terms of this contract.
- C. Concessionaire's gross receipts shall include all receipts of the subcontractor.

**54. MODIFICATION OF CONTRACT**

This concession contract contains and embraces the entire agreement between the parties hereto and neither it, nor any part of it, may be changed, altered, modified, limited, or extended orally or by any agreement between the parties unless such agreement be expressed in writing, signed, and acknowledged by the State and the Concessionaire or their successors in interest.

An amendment is required to change the Concessionaire's name as listed in this Contract upon receipt of legal documentation to support such change.

Notwithstanding any of the provisions of this Contract, the parties may hereafter, by mutual consent expressed in writing, agree to modifications thereof, additions

thereto, or terminations thereof, which are not forbidden by law. Such written modifications or additions to this Contract shall not be effective until signed and acknowledged by the State and Concessionaire and approved in writing by the Attorney General and the Department of General Services of the State of California. The State shall have the right to grant reasonable extensions of time to Concessionaire for any purpose or for the performance of any obligation of Concessionaire hereunder.

**55. UNENFORCEABLE PROVISION**

In the event that any provision of this Contract is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Contract have force and effect and shall not be effected thereby.

**56. APPROVAL OF CONTRACT**

This Contract, amendments, modifications, or termination thereof shall not be effective until approved by the Attorney General and the Department of General Services of the State of California.

**57. STATE'S DISTRICT SUPERINTENDENT**

For the purposes of this Contract, the District Superintendent is the State representative responsible for the Premises. The District Superintendent is charged with the day-to-day administration of this Contract and is the Concessionaire's initial contact with the State for information, contract performance, and other issues as might arise. The District Superintendent may delegate these responsibilities to a Sector or Park Superintendent or other individual.

**IN WITNESS WHEREOF**, the parties hereto warrant that they respectively have the requisite authority to enter this Contract, binding the named parties for which they sign, and have executed this concession contract at the respective times set forth below.

**CONCESSIONAIRE:****STATE OF CALIFORNIA  
DEPARTMENT OF PARKS & RECREATION**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

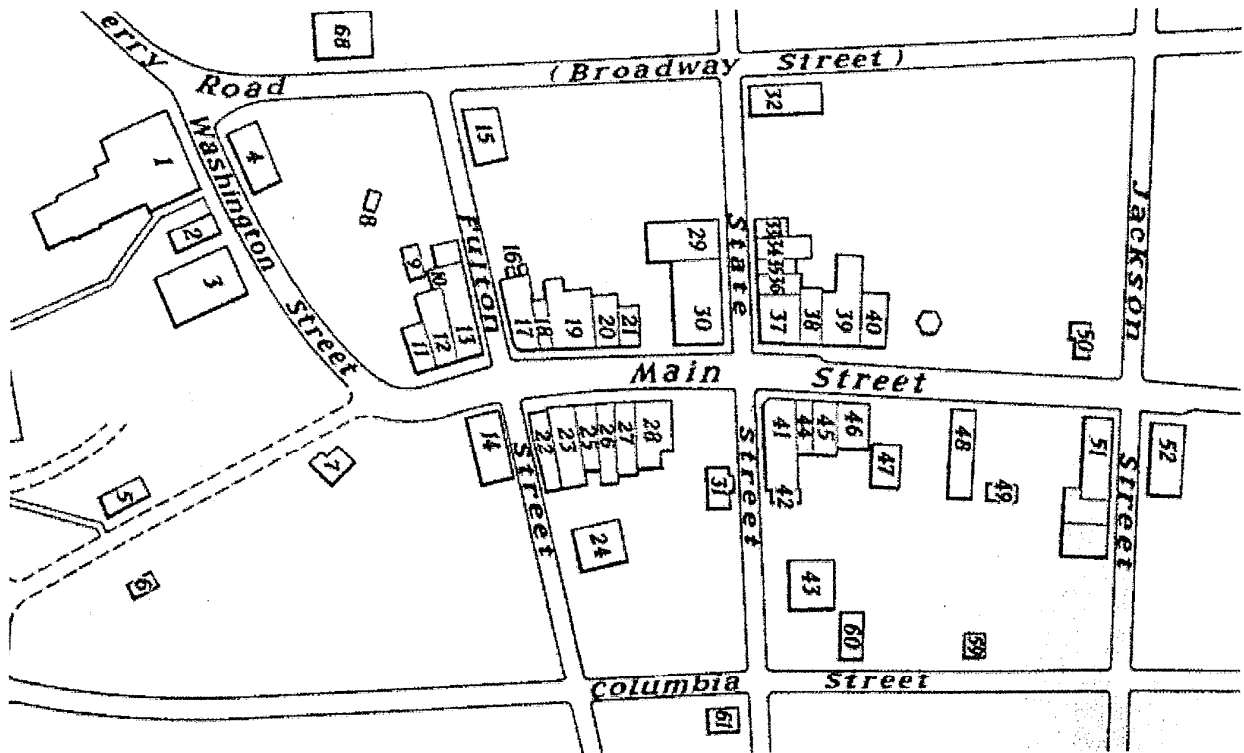
**APPROVED:****APPROVED:****ATTORNEY GENERAL:****DEPARTMENT OF GENERAL SERVICES:**

Approved as to legal sufficiency  
in accordance with the requirements  
of Sections 5080.02-5080.21 of the  
Public Resources Code.

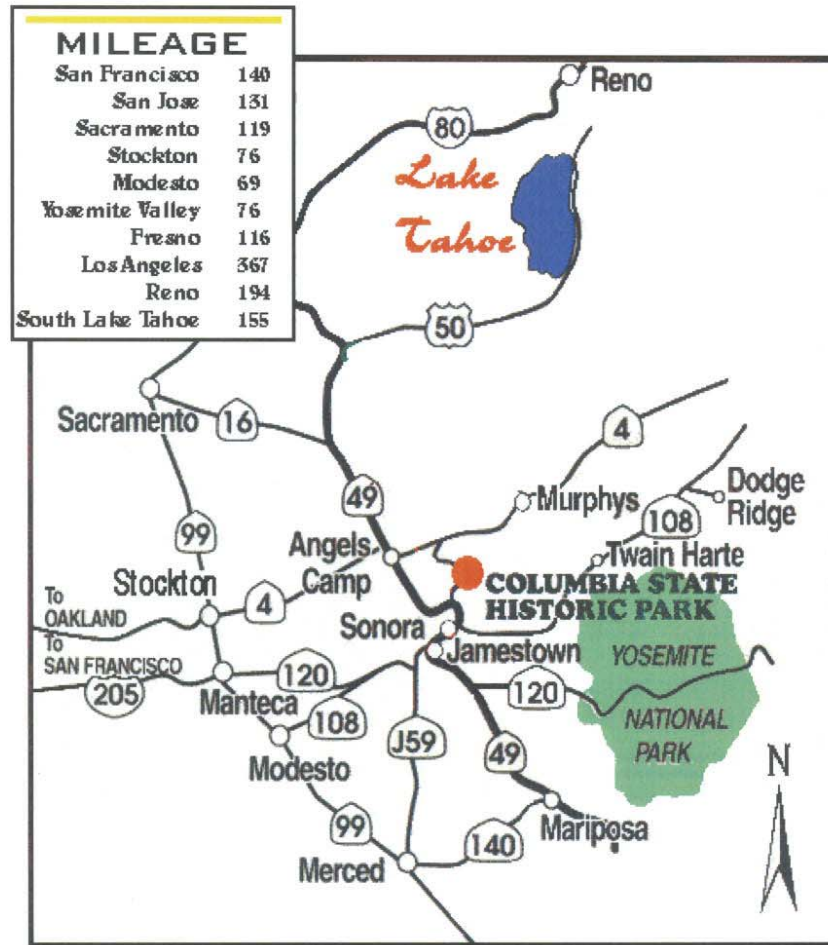
**KAMALA D. HARRIS, Attorney General  
of the State of California**

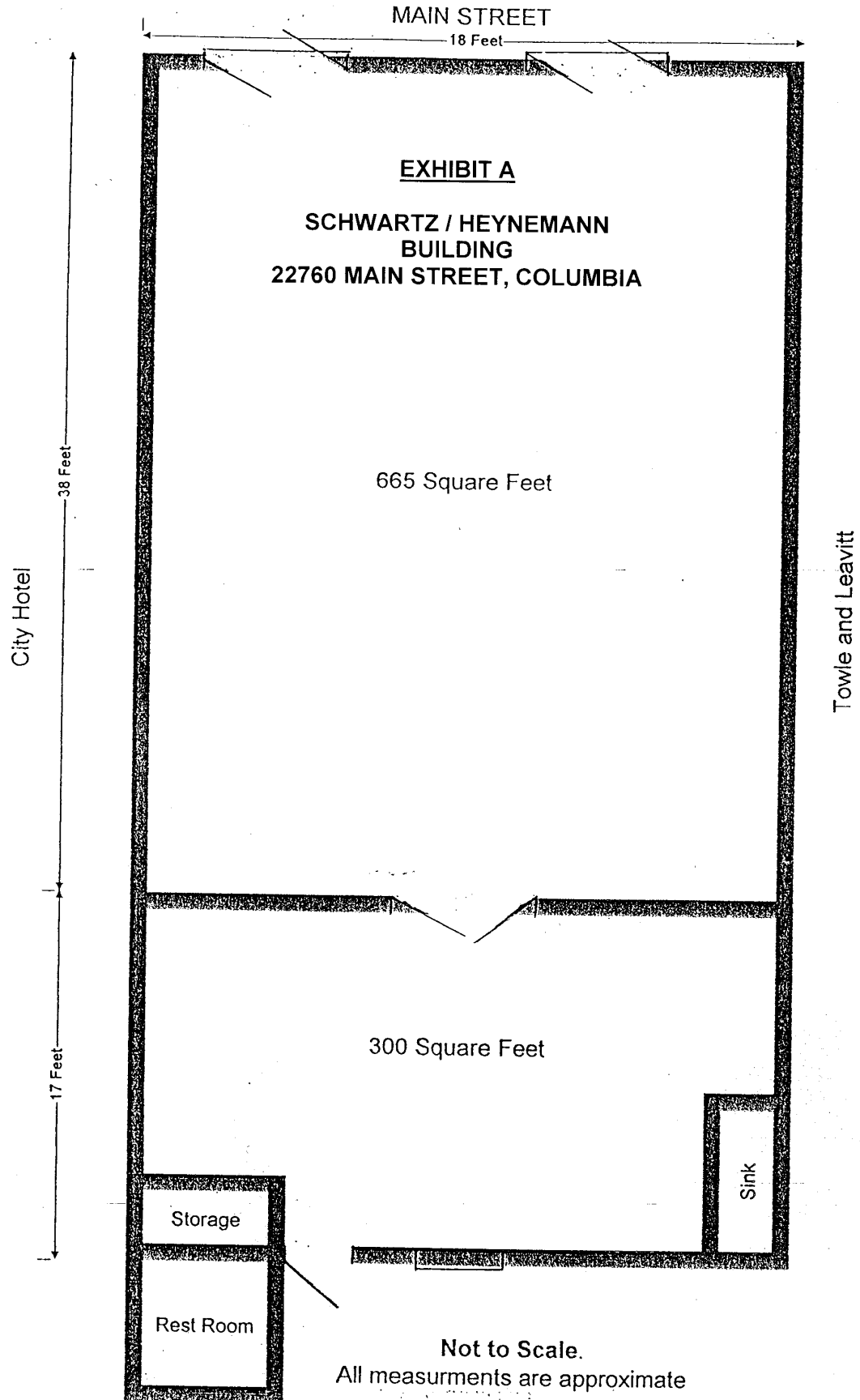
By: \_\_\_\_\_  
Deputy Attorney General

Dated: \_\_\_\_\_

**EXHIBIT A – THE PREMISES**

38. Swartz/Heynemann Building, 22760 Main Street, Columbia, California  
32. McChesney/IOOF Building, 11198 State Street, Columbia, California  
15. Pop Konrad's Garage, 22719 Broadway Street, Columbia, California

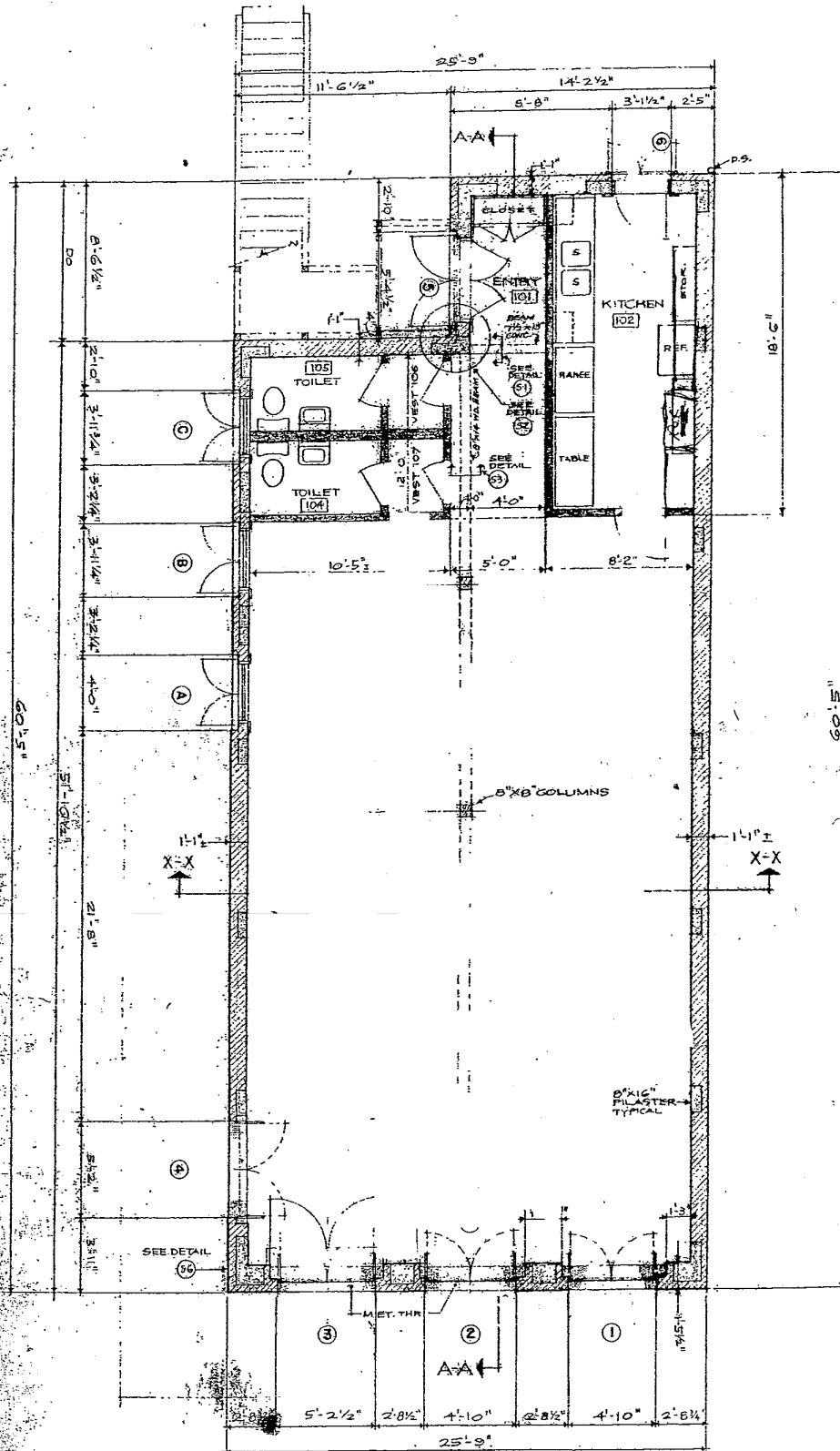






**EXHIBIT A**

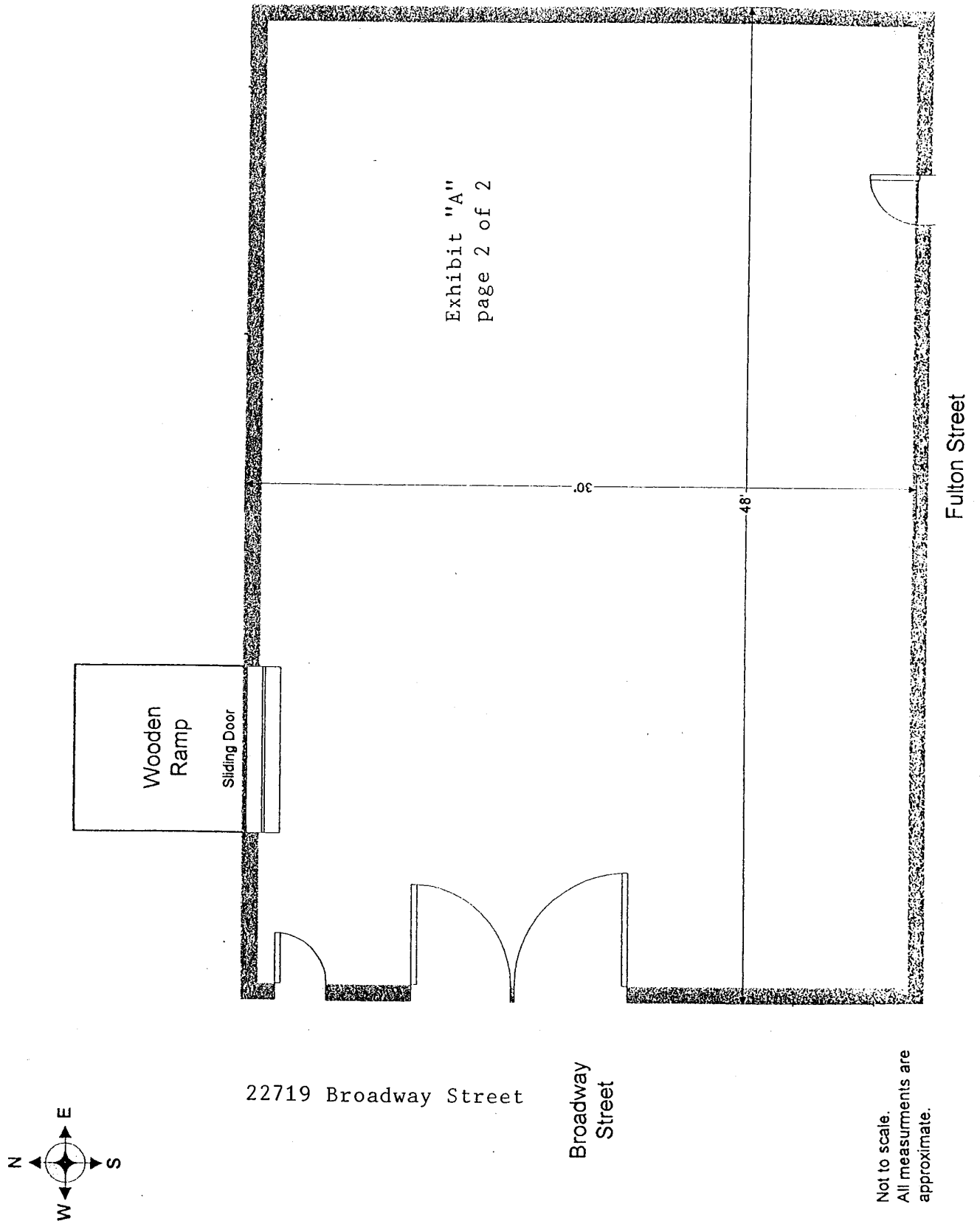
**MC CHESNEY / IOOF BUILDING  
11198 STATE STREET, COLUMBIA**



**FIRST FLOOR PLAN**

**EXHIBIT A**

**POP KONRAD'S GARAGE  
22719 BROADWAY STREET**



**EXHIBIT B - CONSUMER PRICE INDEX ADJUSTMENT FORMULA**

Consumer Price Index (CPI) adjustments applied to the \$\$\$ Minimum Annual Rent shall be based on changes in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, San Francisco All Items, (1982-84=100). Calculations shall employ the following formula:

"Base Index" =	CPI Index published for the month preceding the commencement date of this Contract*. <i>If first year of CPI adjustment is beyond second year of Contract then the "Base Index" shall be the month preceding the commencement date of the Contract Year immediately preceding the year to be adjusted.</i>
"Base Rent" =	Minimum \$\$\$ rent during the first Contract Year*. <i>If there is a break of more than a year between CPI adjustments, i.e., five years following a CPI adjustment in sixth year, then the "Base Rent" shall be the amount of the last adjusted rent.</i>
"Year End Index" =	CPI Index for the month preceding the start of the subject Contract Year.

\*On continuous CPI Adjustments beginning with second year "Base Index" will always be CPI Index published for the month preceding the commencement date of Contract and "Base Rent" will always be Minimum \$\$\$ rent during the first Contract Year.

	<u>"Year End Index" - "Base Index"</u>		
<b>Step #1:</b>	"Base Index"	=	% Change
<b>Step #2:</b>	% Change x Base Rent	=	Adjustment
<b>Step #3:</b>	Base Rent + Adjustment	=	New Rent

**EXHIBIT C – DPR 54, CONCESSIONAIRE'S MONTHLY REPORT OF OPERATION**

State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**CONCESSIONAIRE'S MONTHLY REPORT OF OPERATION**

FOR THE MONTH OF \_\_\_\_\_, YEAR \_\_\_\_\_

(Instructions on reverse.)

FOR DEPARTMENT COMPLETION	
DISTRICT NO.	PARK UNIT NO.
ROC DOCUMENT NO.	

NAME OF CONCESSION					
ADDRESS			CITY/STATE/ZIP CODE		
DISTRICT			PARK UNIT		
TYPE OF RECEIPT	GROSS RECEIPTS	NUMBER OF UNITS (WHERE APPLICABLE)	CUMULATIVE GROSS TO DATE (CONTRACT YEAR)	PERCENT RATE OR AMOUNT PER UNIT DUE STATE	AMOUNT DUE TO STATE
FOOD & NONALCOHOLIC BEVERAGES					
ALCOHOLIC BEVERAGES					
MERCHANDISE					
EQUIPMENT RENTALS					
PAY SHOWERS					
VENDING MACHINES (SEE REVERSE)					
<b>SUBTOTALS</b>					
				<b>ADJUSTMENTS</b> (EXPLAIN REASON ON REVERSE)	
				<b>***TOTAL DUE***</b> (EXPLAIN REASON ON REVERSE)	
<b>MAINTENANCE FEES</b> (COMPLETE THIS SECTION IF APPLICABLE)					
THIS MONTH'S MAINTENANCE FEE ALLOCATION _____ % x Monthly Gross Revenue = \$			CUMULATIVE MAINTENANCE FEE ALLOCATION YEAR TO DATE _____ % x Cumulative Gross Revenue = \$		
AMOUNT SPENT ON ELIGIBLE MAINTENANCE THIS MONTH \$			CUMULATIVE AMOUNT EXPENDED ON ELIGIBLE MAINTENANCE YEAR TO DATE \$		
<b>SEASONAL CONCESSIONS</b> (COMPLETE THIS SECTION IF APPLICABLE)		EXACT DATE YOU CEASED OPERATIONS		DATE YOU EXPECT TO RESUME OPERATIONS	
<b>DECLARATION</b>					
I declare under penalty of perjury that the information on this form is accurate and complete to the best of my knowledge.					
CONCESSIONAIRE'S SIGNATURE		PRINTED NAME		DATE	
TITLE/POSITION				PHONE NO.	

## EXHIBIT C – *continued*

### DPR 54 COMPLETION INSTRUCTIONS

1. Provide the month and year of operation for which this report is being prepared.
2. Provide full name of the concession and the name and address of the concessionaire, including city, state and zip code.
3. Include all revenue for the month for each appropriate category. For "Vending Machine" revenue, please include the following sources:
  - Ice machines
  - Newspaper vending machines
  - Map and brochure vending machines
  - Grab boxes
  - Firewood dispensers
  - Air compressors
  - Washing machines and dryers

Do not include the following sources as "Vending Machine" revenue:

  - Park UR Self machines
  - Pay showers
  - Iron rangers
4. Types of revenue that might be recorded on a "per unit" basis include:
  - Petroleum products (per gallon)
  - Group tours (per adult or children's ticket)
5. Complete the "Maintenance Fees" and "Seasonal Concessions" sections of the form if your concession contract requires a maintenance fee allocation and/or if your concession operates on a seasonal basis.
6. Sign and date the form and provide the preparer's title and telephone number.

COMMENTS/EXPLANATIONS:

DPR 54 (Back)

**EXHIBIT D – OPERATION PLAN**

This section will incorporate the successful concessionaire's plans.

SAMPLE

**EXHIBIT E – FACILITY IMPROVEMENT PLAN**

This section will incorporate the successful concessionaire's plans.

SAMPLE

**EXHIBIT F – INTERPRETIVE PLAN**

This section will incorporate the successful concessionaire's plans.

SAMPLE



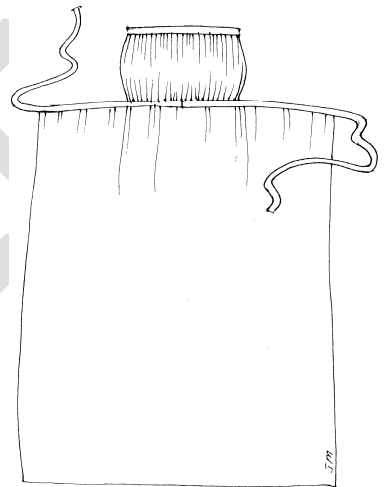
**EXHIBIT G - MINIMUM COSTUMING REQUIREMENTS**

The Concessionaire and employee's dress, for women and men, shall be in accordance with the information and pictures in this exhibit and as appropriate for a Specialty Retail Concession.

- **Women shall wear a "pinner" apron over their dress at all times.**
- **Women's long hair will be worn up or off the shoulder. Short hair should be worn to give the appearance of long hair, i.e., with a bonnet, cap or pinned up.**
- **For both men and women, shoes are to be dark, laced or buttoned. No exercise shoes or sandals.**
- **No modern watches or timepieces.**
- **For men, no blue jeans or string ties.**

**The Working Female Merchant**

In the nineteenth century, women were advised that "the aim of the gentle sex should be simplicity and taste" and "modesty in dress and behavior add more charm to women than the rustle of silk or the glitter of gold." Unnecessary display of wealth was considered coarse or vulgar. A woman's stature in the community was more likely to be shown by the quality of the materials and the cut of her clothing. Understated elegance was more preferable than several pieces of jewelry and glaring colors. This was the Victorian era, where legs were "limbs" and ladies did not speak of any ailment that occurred between their necks and their ankles. Low-necked dresses or short sleeves were not worn during the daylight hours. Such styles were strictly for balls or other special occasions, and a woman was not a lady if she displayed herself in such a manner on the public streets. Women always wore their hair up off of their shoulders and they wore a bonnet while out in the sun to protect her neck and face. If she was doing housework, gardening, or some such strenuous activity, it was acceptable for a woman to roll her sleeves up to the elbows, undo the top button at her throat, and wear one less petticoat. An apron was an important part of everyday clothing. The most common was tied around the waist and could be any length from knee to floor. A less common apron, called a pinner, had a bib on the front that was pinned to the upper part of the bodice. Footwear for women was the high-top boot. The boot came to just above the ankle and was either laced or buttoned in front or on the side. Heels were up to one-half inch thick, and often lower. Stockings were of solid colors or striped horizontally. Spectacles for women were the same as for men (see Spectacles on page 58).



**ISABELLA'S**  
WORKDRESS





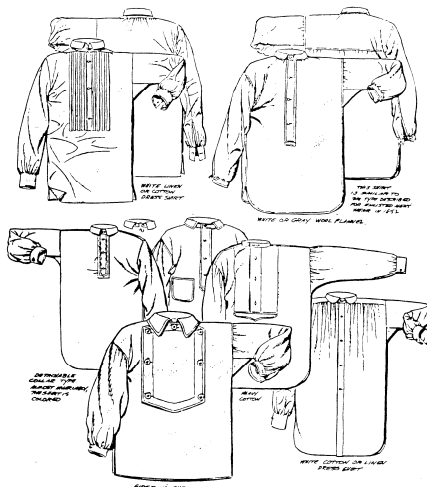
Examples of patterns can be found at [www.pastpatterns.com](http://www.pastpatterns.com)

## The Working Male Merchant

**Hats and Caps:** If we can assume that a man in business wished to project the image of success, then we can dress him in a way which enables him to stand out among the rustics. The most impressive piece of mid-19th century headgear deemed appropriate for this message was the tall hat or as we know it the top hat. In the early 1850's it was an impressive 7"-8" tall and most strikingly covered with silk plush, imitating beaver, usually in black. The form was also crafted in felt or straw. The previously described wheel cap and felt hats would have had their place but more likely as casual wear to the informed and fairly fashionable businessman.



Mens coats of 1800s and 1850s.



Shirts of 1800s and 1850s.

**Dress Shirt:** An 1850's dress shirt, in many ways, shared its form with its rude brother the work shirt, long in the body, loose fitted, drop shouldered etc. Its distinction came not from its form but its finish, crafted of fine or coarse cotton with fine cotton or linen bosom, collar and cuffs. The shirts' relative loose fit and style only vaguely relates to its modern fitted counterpart. The typical shirt would have a pleated bosom and detachable collar. The collar would not be as high as the earlier paracide but would still have a wide opening

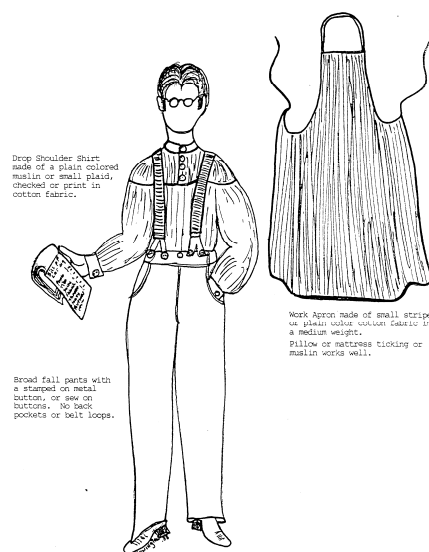
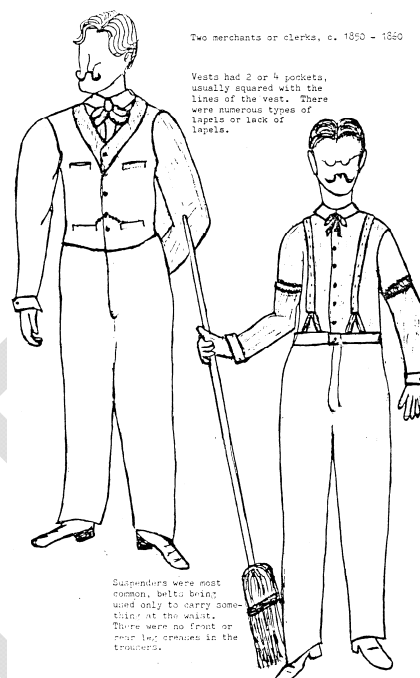
in the front. Collars could be worn up or turned down over the neckwear.

**Neckwear:** Neckwear styles and fabric choices varied but we can narrow the varieties to one, which based on photo-evidence, predominated daywear. The black silk cravat was a triangle of starched fabric that upon being folded could then be tied in numerous fashionable knots. Even working miners are seen in outdoor scenes with cravats tied over their miner's over shirts.

**Vests:** There were several popular styles in our period and by far the vest was the most expressive part of a man's costume. In general they were long enough to cover the pants waistband and sometimes employed a hidden tab to button to the pant front. The design of the revers (lapels) varied from long to short, wide to narrow, notched, or shawl. The fronts were generally padded and sometimes darted to achieve the fashionably rounded chest. In some, the padding was removable to facilitate cleaning. Fabric choices could be quite varied with patterned silk brocades, cut velvets in plaids or florals, plain silk satin or velvet and fancy Marseilles cotton predominating.

**Trousers:** The business trouser of the time followed the same form as the miner's with the exception of fit and fabric. A deviation known as the Cossack had its fullness pleated into the waistband and narrowed to the ankle. The fly-front was well established but the narrow fall-front survived even in fashion plates as late as 1851 (Plate 10) and most certainly beyond. In order to update an 1830's-40's small fall, you should narrow the waistband and belt the back. For fabric choices, stripes, checks, solids, mixes and plaids were very popular. Lighter colors and materials like cotton and linen would be worn in the summer.

**Coat:** The Frock Coat was apparently the most popular style although the less fitted sack coat and paletot had gained popularity. For the Frock of the 1850's, fashion dictated a small waist, short flared skirt and early in the decade, tight form fitting sleeves. Revers and collars were generally wide and the later was sometimes covered in velvet. The ideal masculine form was a rounded chest, small waist and rounded hips, all achieved through careful cutting and padding of the chest and hip areas. Fabrics were generally tightly woven woolens. Dark blue and black were common although brown, claret and various greens (olive and bottle) had their day. Lighter colors and fabrics would appear during the warm seasons.



**Underwear:** Same as a miner.

**Shoes:** Brogan or dressier styles in fine leather.

**Suspenders:** Same as a miner although nicer versions were faced with silk.

**Spectacles:** Unlike we people of the late 20th century, our ancestors of the mid-19th century considered good vision a privilege and not a right. Most people accepted not being able to see distances and used spectacles for reading only. This creates a small dilemma. The period frames illustrated here tend to have very small lenses and a loose fitting nose bridge. These features lend themselves to looking down at a book, but will take some getting used to for the modern myopic. Frame styles of the time were made from blued steel, brass, nickel, silver or gold with small rounded rectangular, octagonal, or oval lenses. The temple pieces (sides) were either a straight wire, sliding sections (telescopic) or turn-pin style with two shorter wires joined with a rivet. These wires terminated on all styles with a small, open or closed, teardrop paddle.

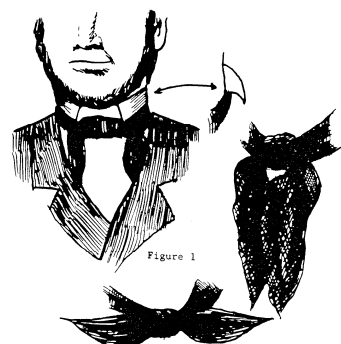


Figure 2



Figure 3



Figure 4

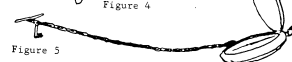


Figure 5



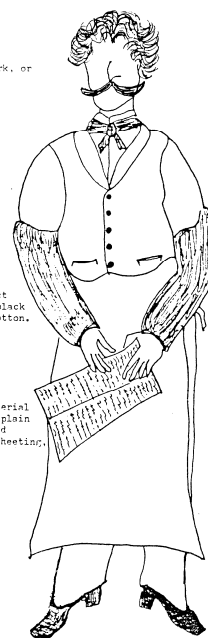
Figure 6

**Hair and Beard:** After looking at the photographic record one might assume that men styled their faces in as many varied fashions as anything else. Certain styles (such as shorter hair and a clean face or longer hair and a full beard) are routinely seen but no single look predominates. In general, the hair was worn from short (collar length) to long (shoulder length), the middle range being typical. Universally parted on the side and sometimes combed down over the ears and puffs known as "Dog's Ears". Beard styles included the Trencher or Dish (a narrow beard running from side burn, under the jaw line and chin). Goatee, Goatee and mustache connected, side whiskers (sideburns) long to the jaw line and under) and side whiskers with small moustache. One particular beard ran under or at the jaw line, never connecting the side burns and about 1/2 way over the chin. Moustaches are only occasionally seen by themselves and the "long" full beard seems to appear later on the old worn down miners.

School teacher, shop clerk, or upper-crust craftsman.

Matching false sleeves to protect cuffs. Made of black cloth, usually cotton.

Man's apron. Material would range from plain cotton, to checked gingham, coarse sheeting, or flour sacking.



The Merchant's costuming information is an excerpt from "The Miner and the Merchant" manual and provided with the permission of the author Jim Miller.

**EXHIBIT H - LICENSE/PERMISSION FOR USE OF TRADEMARKS**

## License/Permission for Use of Trademarks

## A. Logo Use by External Entities

Use of the logo is restricted to State-developed publications and activities, unless the State allows otherwise. Use of the logo by external entities must not be allowed unless use of the logo is consistent with promoting the goodwill of the California State Parks and the State's goals. When the State allows the logo to be used by an external entity on material not copyrighted to the State, the following policies apply:

1. Written permission must be granted by the State to the third party entity, confirming the terms and conditions of use. This may be incorporated into an existing contract, agreement or may be crafted as a separate license agreement. Separate license agreements must be approved by the Interpretation and Education Division.
2. The logo may not be the most prominent design element (unless the license agreement states otherwise, such as when the logo is used on uniforms and merchandise).
3. The logo may not be used in a manner that implies editorial content has been authored by or represents the views or opinions of the State.
4. The logo may not be used in any venue that displays adult content, promotes gambling, involves the sale of tobacco or alcohol, or violates applicable law.
5. The logo may not be used in a manner that is determined by the State in its sole discretion to be misleading, defamatory, infringing, libelous, disparaging, obscene, or otherwise objectionable.
6. For each specific use of the logo (except in the cases of use by cooperating associations, concessionaires and operating agencies), advance approval must be obtained from the Chief of the Interpretation and Education Division.

## B. Visual Display of the Logo

Unless otherwise authorized by the Chief of the Interpretation and Education Division, use the logo only as represented in these Guidelines.

### C. Registration Symbol

Because the logo is a trademark registered with the U.S. Patent and Trademark Office, the registration symbol ® must be used in connection with each use of the logo, unless it is infeasible from a design or fabrication standpoint (such as for patches or decals).

### D. Logo Components

1. Do not alter the logo components or use the components of the logo separately. For instance, the bear cannot be used alone or replaced with another element and/or the lettering cannot be used without the bear or replaced with different words.
2. The font used for the text in the logo is Lithos. The text in the logo has been converted so that users do not need to have this font loaded on their computers in order to reproduce the logo.

### E. Colors

1. It is best to reproduce the logo using the Pantone (PMS) colors shown below. When reproducing these colors in four-color process inks (CMYK), or on screen (RGB), the screen tints listed below should be used. The following Pantone colors are used in the design of the logo: PMS 123-Yellow, PMS 281-Blue, PMS 364-Green, PMS 490-Brown, PMS 4715 Brown (outline). The yellow background is a gradation of PMS 123. No other colors may be used in the full-color version of the logo.

PMS 123-Yellow:	CMYK: C-0, M-21, Y-88, K-0	RGB: R-253, G-200, B-47
PMS 281-Blue:	CMYK: C-100, M-85, Y-5, K-20	RGB: R-0, G-38, B-100
PMS 364-Green:	CMYK: C-73, M-9, Y-94, K-39	RGB: R-66, G-119, B-48
PMS 490-Brown:	CMYK: C-29, M-85, Y-54, K-72	RGB: R-91, G-43, B-47
PMS 4715-Brown:	CMYK: C-13, M-47, Y-43, K-38	RGB: R-150, G-109, B-91

2. Do not convert the full-color logo to gray scale. Instead use the black-and-white version of the logo.
3. Do not copy the full-color logo on a black ink photocopier (except in the case of providing printouts of presentations that use the logo). Instead the black-and-white version of the logo should be used.

4. The logo, in both full-color and black-and-white, may be used on colored paper and fabric.
5. When printing in one or two colors, use the black-and-white version of the logo in a color being used for printing. When printing in two colors, the logo should be printed in the darker of the two colors.
6. When embroidering the logo or screening it onto fabric, use the full-color version of the logo or reproduce the logo in any single color. Do not reproduce the logo in any two- or three-color combinations.

F. Appearance

1. The logo must always appear clear and crisp. In order to meet this requirement, it should be printed at a minimum of 300 DPI.
2. Do not tilt, skew, or distort the logo.
3. In order to maintain clarity, do not use the logo at a size smaller than 5/8" in diameter.
4. Reproduce the logo only from camera-ready proofs or electronic printing files. Do not redraw or trace the logo.
5. Do not download and use the logo from the Department's web site. It is not suitable due to its low resolution.

G. Placement

1. Do not crop, overprint, screen or superimpose the logo or print it behind art or copy.
2. To make sure the logo stands out clearly, it must be placed within an area of unobstructed space. This also applies to the placement of the logo relative to the edge of a page or screen. There are two ways to determine the clear zone around the logo:
  - a. The space must be the height of the letter "I" in the word "CALIFORNIA" in the logo.

- b. The space must be approximately  $\frac{1}{8}$  of the width of the logo. For example, if the logo is 2 inches across, then the clear zone would measure  $\frac{1}{4}$  of an inch.





**EXHIBIT I - DPR 86, CONCESSIONAIRE FINANCIAL STATEMENT**

State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**CONCESSIONAIRE FINANCIAL STATEMENT**

CONCESSIONAIRE NAME	CONCESSION NAME
PARK UNIT NAME	REPORTING PERIOD From: _____ To: _____

**A. CASH FLOW STATEMENT****GROSS SALES/RECEIPTS**

		\$ _____
Less Returned Sales and Allowances	\$ _____	
Less Sales Taxes	_____	
Net Sales for Period		\$ _____
Cost of Goods Sold:		
Inventory at Beginning of Period	\$ _____	
Add Purchases During Period	_____	
Merchandise Available for Sale	_____	
Less Inventory at Close of Period	_____	
Less Cost of Goods Sold		\$ _____
<b>GROSS PROFIT</b>		<b>\$ _____</b>

**LESS EXPENSES**

Salaries & Wages <i>(do not include Concessionaire salaries)</i>	\$ _____
Rent to State	_____
Insurance	_____
Materials & Supplies	_____
Maintenance & Repairs	_____
Utilities <i>(including telephone)</i>	_____
Advertising	_____
Taxes & Licenses <i>(other than income &amp; sales)</i>	_____
Legal & Accounting	_____
Travel & Transportation	_____
Interest	_____
Security	_____
Administrative Overhead	_____
Depreciation <i>(equipment)</i>	_____
Amortization <i>(improvements)</i>	_____
Other: _____	_____
Other: _____	_____
Other: _____	_____
Other: _____	_____

**TOTAL EXPENSES** \$ \_\_\_\_\_

**NET PROFIT FROM OPERATIONS** \$ \_\_\_\_\_  
*(before income taxes)*



**CONCESSIONAIRE FINANCIAL STATEMENT**

CONCESSIONAIRE NAME	CONCESSION NAME
PARK UNIT NAME	REPORTING PERIOD From: _____ To: _____

**C. BALANCE SHEET****ASSETS****CURRENT ASSETS**

Cash \$ \_\_\_\_\_  
 Accounts Receivable \_\_\_\_\_  
 Merchandise Inventory \_\_\_\_\_  
 Notes Receivable (Less than 1 year) \_\_\_\_\_

**TOTAL CURRENT ASSETS** \$ \_\_\_\_\_**NONCURRENT ASSETS**

Equipment/Property \$ \_\_\_\_\_  
 Less Depreciation Reserve \_\_\_\_\_  
 Net Equipment/Property Cost \_\_\_\_\_  
 Prepaid Expenses \_\_\_\_\_  
 Other: \_\_\_\_\_  
 Other: \_\_\_\_\_

**TOTAL NONCURRENT ASSETS** \$ \_\_\_\_\_**TOTAL ASSETS** \$ \_\_\_\_\_**LIABILITIES****CURRENT LIABILITIES**

Accounts Payable \$ \_\_\_\_\_  
 S & W Payable \_\_\_\_\_  
 Short-Term Notes Payable \_\_\_\_\_  
 Interest Payable \_\_\_\_\_  
 Short-Term Loan Payable \_\_\_\_\_  
 Other: \_\_\_\_\_  
 Other: \_\_\_\_\_

**TOTAL CURRENT LIABILITIES** \$ \_\_\_\_\_**OTHER LIABILITIES**

Other: \$ \_\_\_\_\_  
 Other: \_\_\_\_\_

**TOTAL OTHER LIABILITIES** \$ \_\_\_\_\_**TOTAL LIABILITIES** \$ \_\_\_\_\_**CAPITAL****OWNER'S EQUITY**

Capital \$ \_\_\_\_\_  
 Less Personal Drawing \$ \_\_\_\_\_  
 Net Addition \$ \_\_\_\_\_  
 Stockholder's Equity \$ \_\_\_\_\_  
 Other: \$ \_\_\_\_\_

**TOTAL CAPITAL** \$ \_\_\_\_\_**TOTAL LIABILITIES AND CAPITAL** \$ \_\_\_\_\_

**CONCESSIONAIRE FINANCIAL STATEMENT**

CONCESSIONAIRE NAME	CONCESSION NAME
PARK UNIT NAME	REPORTING PERIOD From: _____ To: _____

**D. STATEMENT OF MONTHLY GROSS SALES/RECEIPTS**

Jan 20 \_\_\_\_ \$ \_\_\_\_\_ April 20 \_\_\_\_ \$ \_\_\_\_\_ July 20 \_\_\_\_ \$ \_\_\_\_\_ Oct 20 \_\_\_\_ \$ \_\_\_\_\_  
Feb 20 \_\_\_\_ \$ \_\_\_\_\_ May 20 \_\_\_\_ \$ \_\_\_\_\_ Aug 20 \_\_\_\_ \$ \_\_\_\_\_ Nov 20 \_\_\_\_ \$ \_\_\_\_\_  
Mar 20 \_\_\_\_ \$ \_\_\_\_\_ June 20 \_\_\_\_ \$ \_\_\_\_\_ Sept 20 \_\_\_\_ \$ \_\_\_\_\_ Dec 20 \_\_\_\_ \$ \_\_\_\_\_

**TOTAL MONTHLY GROSS SALES/RECEIPTS \$ \_\_\_\_\_**

If the "Total Monthly Gross Sales/Receipts" above does not match the Cash Flow Statement "Gross Sales/Receipts," please explain below.

***The undersigned declares and certifies that the above statement and the attached Cash Flow Statement, Schedule of Depreciation, and Balance Sheet are correct.***

AUTHORIZED SIGNATURE

DATE



PRINTED NAME OF PREPARER

**EXHIBIT J - DPR 531, CONCESSION PERFORMANCE RATING****CONCESSION PERFORMANCE RATING**State of California - The Resources Agency  
CALIFORNIA STATE PARKS

DISTRICT		PARK UNIT		DATE				
CONCESSIONAIRE		TYPE OF CONCESSION						
<b>CATEGORIES</b> <i>Circle the appropriate points in each category. If category is not applicable, check not applicable (NA) box.</i>		<b>EXCELLENT (E)</b> 	<b>SATISFACTORY (S)</b> 	<b>NEEDS IMPROVEMENT (NI)</b> 	<b>NONCOMPLIANCE/ UNACCEPTABLE (NON)</b> 	<b>COMPLIANCE (COM)</b> 	<b>NOT APPLICABLE (NA)</b> 	<b>COMMENTS</b> <i>Explain items which are rated excellent, needs improvement or noncompliance/unacceptable. Make recommendations for correction for NI and NON rating. Attach additional sheets as necessary.</i>
ACCOUNTING	RENTAL PAYMENT	8	6	2	0			
	MONTHLY DPR 54 SUBMITTAL	4	3	1	0			
	ANNUAL DPR 86 SUBMITTAL	4	3	1	0			
	MAINTAINS REGISTER JOURNAL/\$ TRAIL				0	4		
	OTHER:				0	4		
BONDS/INSURANCE	PERFORMANCE BOND				0	4		
	LIABILITY INSURANCE				0	4		
	FIRE INSURANCE				0	4		
	AUTOMOBILE INSURANCE				0	4		
	OTHER:				0	4		
CONSTRUCTION	REQUIRED IMPROVEMENTS				0	4		
	TIME SCHEDULE				0	4		
	PAYMENT BOND				0	4		
	ADA COMPLIANCE				0	4		
USE OF PREMISES	OPERATING DAYS/HOURS	4	3	1	0			
	AUTHORIZED GOODS/SERVICES	4	3	1	0			
	APPROPRIATE SIGNAGE/ADVERTISING	4	3	1	0			
	OTHER:	4	3	1	0			
QUALITY ASSURANCE	GOODS	8	6	2	0			
	SERVICES	8	6	2	0			
	PRICES (COMPETITIVE/POSTED)	4	3	1	0			
	CUSTOMER SERVICE	8	6	2	0			
	OTHER:	4	3	1	0			
TOTAL POINTS PER COLUMN				0				
PAGE 1 ONLY								

CATEGORIES		E	S	NI	NON	COM	NA	COMMENTS
SAFETY	FIRE SAFETY/PREVENTION	4	3	1	0			
	GAS/ELECTRIC	4	3	1	0			
	GENERAL SAFETY	4	3	1	0			
	OTHER:	4	3	1	0			
FACILITY MAINTENANCE	INTERIOR - HOUSEKEEPING/CLEANLINESS	4	3	1	0			
	INTERIOR - FACILITY MAINTENANCE	4	3	1	0			
	EXTERIOR - HOUSEKEEPING/CLEANLINESS	4	3	1	0			
	EXTERIOR - FACILITY MAINTENANCE	4	3	1	0			
	GROUNDS - HOUSEKEEPING/CLEANLINESS	4	3	1	0			
	GROUNDS - FACILITY MAINTENANCE	4	3	1	0			
	MAINTENANCE PLAN	4	3	1	0			
	OTHER:	4	3	1	0			
INTERPRETIVE PROGRAM (When Applicable)	COSTUMES	4	3	1	0			
	MERCHANDISE AND INTERPRETIVE PLAN	4	3	1	0			
	FURNISHINGS AND INTERPRETIVE PLAN	4	3	1	0			
	EVENTS/ACTIVITIES AND INTERPRETIVE PLAN	4	3	1	0			
	IMPLEMENTATION OF INTERPRETIVE PLAN	4	3	1	0			
	OTHER:	4	3	1	0			
TOTAL POINTS PER COLUMN PAGE 2 ONLY					0	0		
TOTAL POINTS PER COLUMN PAGE 1 + PAGE 2					0			
TOTAL POINTS RECEIVED FROM ALL CATEGORIES		MAXIMUM POINTS POSSIBLE FOR RATED CATEGORIES		PERCENT RATING		ARE THERE ANY NONCOMPLIANCE OR UNACCEPTABLE RATINGS IN ANY CATEGORY?*		
( )		÷		x 100 = #DIV/0!		<input type="checkbox"/> Yes <input type="checkbox"/> No		
OVERALL RATING (Based on percent rating)								
<input type="checkbox"/> EXCELLENT (90% to 100%) <input type="checkbox"/> SATISFACTORY (70% to 89%) <input type="checkbox"/> NEEDS IMPROVEMENT (60% to 69%) <input type="checkbox"/> UNACCEPTABLE (less than 60%)								
RATER'S SIGNATURE		TITLE		DATE		RATER DISCUSSED REPORT WITH CONCESSIONAIRE?		
						<input type="checkbox"/> Yes. Date: _____ <input type="checkbox"/> No		
In signing this report I do not necessarily agree with the conclusion of the rater.								
CONCESSIONAIRE'S SIGNATURE				TITLE		DATE		

**\*NOTE:** A rating of UNACCEPTABLE or NONCOMPLIANCE in any category will result in an overall rating of no higher than NEEDS IMPROVEMENT.

**EXHIBIT K – MAINTENANCE SCHEDULE**

Maintenance cost responsibilities of the Concessionaire includes, but is not limited to the following:

**Annually:**

1. Seal/Refinish wood floor in sales area.
2. Touch-up paint on doors and jams inside and out, and exterior signs as needed.
3. Perform annual inspection and maintenance of heating and cooling system(s).
4. Perform annual Pest Inspections.
5. Maintain landscaping.

**3-Year Interval:**

1. Seal/Refinish wood floor throughout entire building.

**5-Year Interval:**

1. Paint all interior walls, ceilings, doors, window trim and trim.

**6-Year Interval:**

1. Paint exterior doors, shutters, window trim, trim and exterior signs.
2. In addition for Pop Konrad's Garage: Paint exterior of building.

**ADA Improvements Within First Year:**

1. Modify a portion or add sales counter area so that for every 12' or fraction thereof of counter length, a portion of the counter is at least 36" wide and 28"-34" high with knee space per California State Parks Accessibility Guidelines.

**Regular Maintenance:**

1. All maintenance, repair and/or replacement of interior and exterior wood doors, windows (includes replacement of glass), stairs, porches, shutters, fences, railings, fixtures, storage and/or garbage enclosures, and interior walls, ceilings and floors.

2. All maintenance repair and/or replacement of component parts of utility systems including water distribution and sanitary waste systems within the building and its walls, and including everything on the building side of the electrical meter or main panel if not metered at the building, and all interior and exterior electrical fixtures.

3. All maintenance, repair and replacement of equipment in or attached to the building or their walls which is installed for comfortable and safe occupancy including annual maintenance of heating and cooling systems. Such equipment also includes but is not limited to, furnaces, space heaters, wood stoves, water heaters, air coolers or conditioners, ventilators, security systems, etc.

4. Repair to, or removal of any surface vandalism or graffiti to the exterior of the building and removal/repair within 72 hours of discovery. If there is concern that such repair or removal may cause damage to the historic fabric of the building, Concessionaire shall first consult with the State's Representative prior to removing vandalism.

5. Keep the perimeter of historic building free of vegetation by two (2) feet or more and watering shall also be kept at least two (2) feet away from walls and foundations.

6. Conservation of On-loan State objects to include the maintenance of them in a condition equal to that at the time of loan. Conservation efforts shall not be performed without prior written approval of the State.

**Important Note:**

All maintenance projects listed above at 3-Year, 5-Year and 6-Year Intervals and ADA Projects are to be pre-approved by the State. Any additional maintenance projects not listed above that the concessionaire wants to accomplish through the Contract term shall also be pre-approved by the State. There may be additional Project Evaluation Form ("PEF") submittals that may be required so concessionaire must allow adequate time for project review. Concessionaire shall submit a written proposal package (Concession Maintenance Project Proposal Form) to the Sector Superintendent for prior written approval.

All approved projects shall be performed by licensed California contractors, except with prior written authorization of the Sector Superintendent, with work meeting



or exceeding all applicable codes and regulations. All work on electrical systems, fire protection systems, or gas-fired heating systems shall be performed by a California licensed contractor. Projects and work sites are subject to on-site inspection and review by the State.

The concession Premises are designated as a National Historic Landmark property and shall be maintained in accordance with all applicable laws pertaining to historic structures and their preservation including but not limited to Public Resources Code Sections 5024 and 5024.5 and the Secretary of the Interior Standards for the Treatment of Historic Properties. No alterations, modifications, demolition, or construction may be commenced without prior written approval from State.

**EXHIBIT L – SECRETARY OF THE INTERIOR’S STANDARDS FOR THE  
TREATMENT OF HISTORIC PROPERTIES****CHAPTER I--NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR  
PART 68--THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE  
TREATMENT OF HISTORIC PROPERTIES****Sec. 68.3 Standards.**

One set of standards--preservation, rehabilitation, restoration or reconstruction—will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, and the extent of documentation available and interpretive goals, when applicable. The standards will be applied taking into consideration the economic and technical feasibility of each project.

**(a) Preservation.**

(1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.

(2) The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color and texture.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

**(b) Rehabilitation.**

(1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**(c) Restoration.**

(1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.

(6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

(7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not

be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

(8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(10) Designs that were never executed historically will not be constructed.

**(d) Reconstruction.**

(1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture and such reconstruction is essential to the public understanding of the property.

(2) Reconstruction of a landscape, building, structure or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.

(5) A reconstruction will be clearly identified as a contemporary recreation.

(6) Designs that were never executed historically will not be constructed.

[Code of Federal Regulations]

[Title 36, Volume 1]

[Revised as of July 1, 2002]

**EXHIBIT M – DPR 928, MUSEUM COLLECTIONS LOAN AGREEMENT**

CALIFORNIA STATE PARKS

**MUSEUM COLLECTIONS**State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION**Loan Agreement**

- OL -

Activity Number \_\_\_\_\_

Number of Attachments \_\_\_\_\_

**OUTGOING**

Borrowing Institution \_\_\_\_\_

Authorized Agent and Title \_\_\_\_\_

Phone/FAX \_\_\_\_\_

Address \_\_\_\_\_

City - State - Zip Code \_\_\_\_\_

Purpose of Loan \_\_\_\_\_

Period of Loan \_\_\_\_\_

Description of Objects (with catalog numbers): \_\_\_\_\_

Owner's Valuation: \_\_\_\_\_

I have read and agree to the conditions listed on the reverse of this document and any attachments to it.

Agent's Signature \_\_\_\_\_

Agent's Name \_\_\_\_\_

Date \_\_\_\_\_

**▼ Approval by California Department of Parks and Recreation**

Museum Curator's Signature \_\_\_\_\_

Museum Curator's Name \_\_\_\_\_

Date \_\_\_\_\_

Superintendent's Signature \_\_\_\_\_

Superintendent's Name \_\_\_\_\_

Date \_\_\_\_\_

Deputy Director of Park Stewardship's or Designee's Signature ☐ Not Applicable

Deputy Director of Park Stewardship's or Designee's Name \_\_\_\_\_ Date \_\_\_\_\_

DPR 928 (Rev. 4/99) (Front) (Excel 4/23/1999)

Distribution: ☐ Park Files☐ Statewide Records☐ Borrower

## LOAN AGREEMENT -- OUTGOING

### Conditions Governing the Loan of Objects by the California Department of Parks and Recreation

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#### Care of Loaned Objects

Borrower shall provide a safe and stable environment for the loaned objects and shall return them in the same condition as they were lent.

In the event of any damage, soiling, or inordinate wear resulting from this loan, the borrower agrees to pay all costs required to restore the objects to as good a condition as when they left the custody of the lender, the California Department of Parks and Recreation (hereinafter referred to as DPR).

Borrower shall not effect repairs, cleaning, or other conservation or restoration treatments without express written permission from DPR.

Borrower shall notify DPR within forty-eight (48) hours after discovery of loss of or damage to the loaned objects.

Borrower shall not remove or alter any registration numbers, museum labels, or specimen tags from the loaned objects, or make alterations of any kind to the objects without prior permission of DPR.

#### Use of Loaned Objects

Borrower may examine and/or display loaned objects. Any other use of the loaned objects and/or any intellectual property rights associated with them require prior written approval by DPR.

Borrower shall not transfer, license, assign, sell, pledge, mortgage, or part with the possession of the loaned objects or any intellectual property rights associated with the objects.

Borrower shall give credit for the loan as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Release from Liability

Borrower waives all claims and recourses against DPR, its employees, agents, and contractors for loss or damage to persons or property arising from, growing out of, related to, or in any way connected with or incident to this agreement.

Borrower shall defend, indemnify and save harmless DPR, its employees, agents, and contractors from all liability, loss, cost, or obligation on account of or arising out of any injury to person or persons or property of any kind, from any cause or causes whatsoever in any way connected with the borrower's use of the loaned objects, including acceptance and re-delivery thereof.

#### Termination of Loan

Both the borrower and DPR may cancel this loan prior to the period stated in this agreement by providing thirty (30) days written notice to the other party.

Borrower shall coordinate with DPR to insure the safe return of the loaned objects at the conclusion of the loan, and to obtain approval of packing and transportation methods.

DPR reserves the right to inspect and audit loaned objects. The loaned objects may be withdrawn without prior written notice if DPR determines that the conditions of this agreement are not being met or the objects are otherwise in jeopardy.

#### Other Loan Agreement Forms

In case of any difference between this agreement and the loan agreement forms of the borrower, which DPR may complete upon request, the conditions of this document will control.

**EXHIBIT N - DRUG FREE WORKPLACE CERTIFICATION**


STATE OF CALIFORNIA

**DRUG-FREE WORKPLACE CERTIFICATION**

STD. 21 (Rev. 12/93)(CA ST PKS, EXCEL 4/9/1999)

**CERTIFICATION**

*I, the official named below, hereby swear that I am duly authorized to legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.*

CONTRACTOR/BIDDER FIRM NAME	FEDERAL ID NUMBER
BY (Authorized Signature) 	DATE EXECUTED
PRINTED NAME AND TITLE OF PERSON SIGNING	TELEPHONE NUMBER (Include Area Code) (     )
TITLE	
CONTRACTOR/BIDDER FIRM'S MAILING ADDRESS	

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
  - (a) The dangers of drug abuse in the workplace,
  - (b) The person's or organization's policy in maintaining a drug-free workplace,
  - (c) Any available counseling, rehabilitation and employee assistance programs, and
  - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that everyone who works on the proposed contract or grant:
  - (a) Will receive a copy of the company's drug-free workplace policy statement, and
  - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

4. At the election of the contractor or grantee, from and after the "Date Executed" and until \_\_\_\_\_<sup>(DATE)</sup> (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, then the terms and conditions of this certificate shall have the same force, meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.